



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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OCA FILE

Leg
SPECIAL

August 10, 1988

LEGISLATIVE REFERRAL MEMORANDUM

To: Department of Justice
Department of Agriculture
Department of Education
Department of Labor
Department of Housing and Urban Development
Department of Commerce
Department of Transportation
Department of the Treasury
Department of State
Department of Health & Human Services
Department of Defense
Department of the Interior
National Drug Policy Board
Central Intelligence Agency
Office of Personnel Management
Environmental Protection Agency
National Security Council
U.S. Postal Service
Veterans Administration

SUBJECT: Meeting to Settle Administration Position on Drug Bill Provisions

An all-day meeting will be held on Friday, August 12th to resolve any outstanding differences between the departments and agencies as to what should be the Administration's positions on the hundred-odd provisions in the drug bills currently before the Congress. This meeting was called for by the National Drug Policy Board Drug Bill Coordinators, and the results of the meeting will be presented to them. It is essential that you be represented by someone with authority to speak for your department or agency on any issues that affect it. A schedule for the meeting is attached. You need attend only those portions of the meeting that directly affect your department or agency, but you are free to attend any others that you like.

During the meeting, we will page through the Drug Book (attached) one provision at a time, focusing on the description of Administration Position for each provision. You should be prepared to give your sign off to the wording as it currently appears in the Book, or have alternative language that your Department wishes to insert. Should any department or agency wish to change the wording as it currently appears, the proposed change will be discussed and agreed to or amended as necessary to reach consensus on the Administration's position. In other cases, the current wording is too general or uninformative, and in such cases you may be asked to amplify upon it.

If at all possible, Friday's meeting is intended to produce a consensus statement of Administration Position on nearly all the provisions. Therefore, department or agency representatives should be prepared to negotiate wording. For those few provisions for which we are unable to reach a consensus position, a second meeting will be held on August 19th with Department policy officials.

The August 12th meeting will be held in Room 476, Old Executive Office Building. For clearance into the building, the full name and date of birth for all attendees should be called in by Thursday noon (395-3914). Attendance will be strictly limited to no more than three representatives per department or agency.

Any questions can be addressed to Frank Kalder at 395-3914.


Assistant Director for
Legislative Reference

Attachments

cc: Frank Kalder
Lana Hurdle
John Carnevale
Tracy Davis
Karen Wilson
Jim Fish
Eric Hampl
Larry Matlack

Todd Gramms
Donna Fossum
Kathy Burchard
Fred Colgan
Dick Eisinger
Kevin Cummings
Gary Waxman
Arnie Donohue

AGENDA**DRUG BOOK COORDINATION MEETING****August 12, 1988****Room 476 -- Old Executive Office Building**

| <u>Drug Book Section</u> | <u>Time</u> | <u>Departments/Agencies</u> |
|--------------------------|-------------|--|
| V | 9:30-12:00 | DOJ, TR, DOT, DOS, AG, INT, DOD, OMB, Postal Service, DCI, NSC, FCC, EPA, OPM |
| VI | 1:00-2:00 | ODS, DOJ, TR, DOT, DOD, NSC, OMB |
| III & IV | 2:00-3:30 | DOJ, TR, DOT, DOS, OMB, AG, INT, DOC, DOD, EPA, OFPP |
| VII | 3:30-4:30 | OMB, TR, DOJ, DOT |
| I & II | 4:30-5:30 | HHS, DOJ, AG, OMB, ED, DOL, DOT, HUD, OFPP, VA |

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August 8, 1988

DRUG BILL ANALYSIS SUMMARY

ADDENDUM # 2

Please replace the entire drug book dated July 25, 1988 (index pages dated July 28, 1988) with the one attached, dated August 8, 1988.

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August 8, 1988

## DRUG BILL ANALYSIS SUMMARY

|                                                        | <u>Senate</u> |             |                  | <u>House</u>  |               |             | <u>White House</u> | <u>Lead Dept;</u> |                 |
|--------------------------------------------------------|---------------|-------------|------------------|---------------|---------------|-------------|--------------------|-------------------|-----------------|
|                                                        | <u>Byrd</u>   | <u>Dole</u> | <u>DeConcini</u> | <u>Wright</u> | <u>Michel</u> | <u>NDPB</u> | <u>Conference</u>  | <u>Others</u>     | <u>Category</u> |
| I. <u>TREATMENT, EDUCATION &amp; PREVENTION</u> -- HHS |               |             |                  |               |               |             |                    |                   |                 |
| A. <u>Treatment</u>                                    |               |             |                  |               |               |             |                    |                   |                 |
| Treatment Grants:                                      |               |             |                  |               |               |             |                    |                   |                 |
| - Waiting Time Reduction.....                          | X             | X           | X                | X             | X             |             | X                  | HHS; OMB          | A               |
| - Support Groups.....                                  | X             | X           |                  | X             | X             |             | X                  | HHS; OMB, DOJ     | A               |
| - High Risk Groups.....                                | X             | X           |                  | X             | X             | X           |                    | HHS; OMB, DOJ     | A               |
| - Expectant Mothers.....                               | X             |             |                  | X             | X             | X           |                    | AG; HHS, OMB      | A               |
| - Penal System.....                                    |               | X           | X                | X             |               |             | X                  | HHS; DOJ, OMB     | A               |
| - Other.....                                           | X             | X           | X                | X             |               | X           | X                  | HHS; OMB          | A               |
| Evaluation of Treatment Programs.....                  | X             | X           |                  | X             | X             | X           | X                  | HHS               | C               |
| Reauthorizes/Amends ADAMHA Block Grant                 | X             |             |                  | X             |               |             |                    | HHS; OMB          | A               |

Note: Blanks = no provision X = provision

Lead Agency: HHS  
Others: OMB

August 8, 1988

TREATMENT GRANTS -- WAITING PERIOD REDUCTION  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Permits States to use up to 40% of their block grant funds for construction and renovation of facilities. (Sec. 412-413)

Bill: Byrd (S. Senate Dem.)

General policy statement that bill is intended to increase to maximum extent possible the availability of treatment services. Secretary may grant waiver to State to use funds for purchase and construction of facility or for renovation. (Title III Sec. 3002)

Bill: Wright (H.R. House Dem.)

Authorizes \$100M for grants to provide one-time "seed money" to existing treatment facilities with extensive waiting lists. (Energy and Commerce)

Bill: Michel (H.R. 4842 House Rep.)

Under certain conditions, authorizes \$100 million to be used for grants to public and nonprofit private entities for expansion of programs designed to treat drug abuse. (Sec. 1041)

Bill: Dole (S. Senate Rep.)

Authorizes an additional \$20 million for States to acquire, renovate, or construct substance abuse facilities for drug dependent offenders. (Title IV, Sec. 4402)

White House Conference for a Drug Free America

Federal, State, and local governments must take immediate steps to increase drug treatment capacity.

National Drug Policy Board

Administration Position

The Alcohol, Drug Abuse and Mental Health Block Grant is the most efficient and effective way of supplying states with Federal funds to provide treatment, prevention and rehabilitation of persons who are drug abusers. We strongly disagree with allowance for the use of Federal funds for construction. Under existing law states are permitted to use Federal funds for renovation of facilities but not construction. The Federal Government nationwide accounts for 17 to 20 percent of funds spent on substance abuse treatment with states paying the remainder. In addition to the inappropriate use of Federal treatment funds, we are not sure what administrative burden the ability to use funds for construction would place on us with respect to the properties purchased or constructed with Federal monies.

Status

Lead Agency: HHS  
Others: OMB, DOJ

August 8, 1988

TREATMENT GRANTS -- SUPPORT GROUPS  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

State may use funds for support services such as seeking employment, family counseling and other rehabilitative programs. (Title III, Sec. 3016)

Bill: Wright (H.R. House Dem.)

Authorizes \$30 million for FY 1989 and "such sums" for next 2 fiscal years; grants to provide youth and their families access to education, treatment, prevention and referral services. Also provides for community counseling and outreach, training, etc. -- this portion is authorized at \$15 million for FY 1989 and "such sums" subsequently. Also creates a National Youth Sports Program -- authorized at \$15 million - FY 1989: \$17 million FY 1990 and \$20 million - FY 1991. (H.R. 4872, Title IV, Title VII)

Bill: Michel (H.R. 4842 House Rep.)

Authorizes \$18 million to be used for grants to establish support groups and counseling and referral services for the parents and families of drug abusers. (Sec. 1043)

Bill: Dole (S. Senate Rep.)

Provides \$5 million for two years to expand volunteer efforts to support community anti-drug abuse efforts. The bill also lifts the cap on three-year funding of community-based volunteer efforts. (Title IV, Sec. 4406)



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White House Conference for a Drug Free America

The establishment and support of parent groups should be a priority for all communities.

National Drug Policy Board

Administration Position

Under existing law within the ADAMHA block grant, the states have the authority to provide these types of services.

Status

August 8, 1988

Lead Agency: HHS  
Others: OMB,DOJ

**TREATMENT GRANTS -- HIGH RISK GROUPS**  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Provide for demonstration projects for certain high risk youth -- those who are poor students and those who have experienced long term physical pain. (Sec. 3023, 3027)

Provide for five demonstration projects focusing on treatment and referral services in areas where there is high substance abuse and high incidence of drug-related criminal activities. At least three of the projects must focus on services for adolescents, minorities and women with infant children.

Provides for Comprehensive Community Prevention Initiatives with priority given to high risk youth groups. (Sec. 3029, 3044)

Provide funding to target drug abuse treatment services to areas where I.V. drug use is creating a high risk of AIDS.

Bill: Wright (H.R. House Dem.)

Allows programs for high risk youth provided by Governor's program. Also authorizes grant program under OJJDP to runaway and homeless youth -- for \$15 million - FY 1989. Amends Domestic Volunteer Service Act to give priority to projects targeted at high risk youth for \$5 million FY 1989-91. (H.R. 4782, Title V, Title VII)

Bill: Michel (H.R. 4842 House Rep.)

Authorizes \$16.5 million for grants to support prevention, treatment, and rehabilitation model projects for high risk groups. (Sec. 1043)

Bill: Dole (S. Senate Rep.)

Provides for the continuation of the Office of Substance Abuse Prevention with funding of \$45 million. \$29.5 million will be available for targeted education, prevention and treatment efforts for youth at high-risk for substance abuse. (Title IV, Sec. 4203)

Reaffirms Senate support of S. 1220 which provides \$75 million for substance abuse treatment for IV-drug abusers who are at high-risk of contracting AIDS. (Sec. 4409)

White House Conference for a Drug Free America

National Drug Policy Board

Increase the commitment of resources targeted at high risk youth (low income families, runaways, drop outs, products of dysfunctional families, juveniles in the criminal justice system) through a range of community based and joint programs including public-private job opportunity and educational assistance programs.

Administration Position

We support continuation and emphasis on the High Risk Youth Demonstration Projects to focus energies and resources on youths at risk of becoming substance abusers.

OMB is concerned that the amount of funding increase not break the Bipartisan Budget Agreement.

DOJ opposes the Byrd provisions and the Dole bill provisions. The Wright bill provisions and Michel bill provisions are not objectionable assuming funding is consistent with the Bipartisan Budget agreement. Modifications of these provisions would appear preferable.

Status

Lead Agency: Agriculture  
Others: HHS, OMB

August 8, 1988

TREATMENT GRANTS -- EXPECTANT MOTHERS  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Grants for demonstration projects targeted at women with infant children. (Sec. 3027)

Bill: Wright (H.R. House Dem.)

Authorizes Secretary of Agriculture to study methods of incorporating drug education into the Women and Infant Children (WIC) program -- authorized at \$10 million for FY 1989. Provides demonstration programs targeted at pregnant and postpartum women. Amendments to H.R. 4782, Title VI. (Amendments to H.R. 4907, Sec.9, Sec. 8, and Sec. 11)

Bill: Michel (H.R. 4842 House Rep.)

Amends the Public Health Service Act to provide grants for demonstration projects for expectant mothers in settings other than hospitals. (Sec. 1045)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

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National Drug Policy Board

Encourages treatment for pregnant women who use illegal drugs.

Administration Position

The Department of Health and Human Services has no objections to focusing resources on drug abusing pregnant women except if it is done as a set aside of NIDA research and demonstration monies.

Status

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August 8, 1988

Lead Agency: HHS  
Others: DOJ, OMB

**TREATMENT GRANTS -- PENAL SYSTEM**  
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Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Establishes a "National Advisory Panel on Prison Rehabilitation Programs," consisting of 5 members, appointed by BJA and the Congress; gives the Panel "Oversight responsibility for the daily operations" of a proposed national training center for prison officials running drug rehabilitation programs. (Sec. 704).

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Allows States to use funds for drug abuse education and prevention for prison inmates. (H.R. 4782, Title III)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Reauthorizes \$166 million and authorizes \$234 million (attached to the ADMS block grant). \$100 million will be set-aside for treatment programs for individuals within the criminal justice system. (Title IV, 4105)

White House Conference for a Drug Free America

All jails and prisons should establish drug-treatment programs.

National Drug Policy Board

Administration Position

We support focusing resources on parole and probation populations and are willing to provide technical assistance to Department of Justice on setting up standards within their system to encourage people to move into treatment. HHS already assists States which have the authority to use the funds for their own priorities. We disagree with earmarking monies within the block grant for this purpose and suggest some other mechanism for funding this initiative if monies are approved. We strongly disagree with the Republican Senate version that earmarks \$100 million of appropriated funds under the ADTR block grant. Such an earmark constrains States from using the monies to focus on their priorities. For fiscal year 1989 the President has asked for \$166 million for the ADTR which is not much different than the 1988 level. States have already allocated those funds for programs given priorities.

As stated before, OMB is concerned that monies being spent on treatment fall within the Bipartisan Budget Agreement, focus on effective treatment modalities, and do not infringe on the integrity of the block grant.

DOJ opposes the DeConcini provisions as duplicative and containing inappropriate organizational structures.

August 8, 1988

Lead Agency: HHS  
Others: OMB

TREATMENT GRANTS -- OTHER  
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Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Makes minor amendments to the Public Health Act with respect to grants for assistance to drug abusers (e.g., by allowing funds to be used for treatment of certain otherwise ineligible persons). (Sec. 401).

Bill: Byrd (S. -- Senate Dem.)

Establishes office of Assistant Director for Special Populations. (S. 3061)

Bill: Wright (H.R. -- House Dem.)

Establishes prevention and educational programs for youth gangs -- authorized at \$30 million for FY 1989 and "such sums" subsequently. Establishes Director of Special Populations to provide priority services to specific targeted groups. (H.R. 4782, Title V)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. --Senate Rep.)

Establish Office of Associate Director for Special Populations -- targeted at women and minorities. (Title IV, Sec. 4401)



White House Conference for a Drug Free America

State and local governments should ensure that funds are made available for all court-ordered treatment.

National Drug Policy Board

Increase commitment to discretionary federal grants for State and local treatment programs using a 1/3-1/3-1/3 matching funds formula among federal, state and local authorities.

Administration Position

HHS disagrees with the establishment of separate Offices of Special Populations in NIDA and NIAAA. We are concerned about the recommendation of a 1/3 - 1/3 - 1/3 match among Federal, state and local governments. If a match within the grant programs is to be used, the match should be between the Federal and state governments and then allow the states to require local government participation. ADMS and ADTR grants have never had a matching requirement.

DOJ defers to HHS and OMB on S. 2205 provisions. DOJ opposes the Byrd, Wright and Dole bill provisions as drafted.

Status

August 8, 1988

Lead Agency: HHS  
Others:

EVALUATION OF FUNDED TREATMENT PROGRAMS  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Title III Sec. 3014 requires NIDA to collect data on number, type, characteristics, success, ratios, etc. of treatment programs-- requires HHS to report to Congress on types and range of treatment programs. Secretary to establish within NIDA an office of Drug Treatment Evaluation. Requires evaluation of education and prevention efforts. (Sec. 3014/3025, 3025, 3029)

Bill: Wright (H.R. House Dem.)

Requires evaluation of drug and alcohol treatment and education programs. (H.R. 4872, Sec. 1002)

Bill: Michel (H.R. 4842 House Rep.)

Requires the HHS Secretary to provide for independent evaluation of both Federally funded drug treatment programs and research programs on treatment methods. Requires the Secretary to provide a report on this evaluation to Congress within 1 year of enactment of this section. (Sec. 1042)

Bill: Dole (S. Senate Rep.)

Restricts federal funding of State treatment programs to programs which are shown to be effective by the States under guidelines set by the Secretary of HHS and based on a study by the Institute of Medicine. (Title IV, Sec. 4103, 4206)

Requires the Secretary of Health and Human Services to report to Congress on the range of treatment programs for drug abuse mandated under this Act. A method of measuring the effectiveness of these programs shall be developed by the Secretary and the results of such evaluations reported.

White House Conference for a Drug Free America

The Federal Government-through the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) should develop a standardized, objective method for determining drug treatment outcome and objective measures for assessing drug treatment success.

Funds for drug treatment programs should be based primarily on their efficacy and efficiency, and on the percentage of clients who remain drug-free following treatment.

An independent organization should evaluate the efficacy of methadone treatment.

An independent evaluation of the National Institute on Drug Abuse should be conducted.

National Drug Policy Board

Expand demand side intelligence collection to include information on (a) treatment capacity and (b) evaluation of effectiveness of programs, particularly those aimed at crack/cocaine addiction.

Administration Position

While the most efficient and effective way of collecting data would be through the block grant, HHS feels that there is sufficient interest among the states to cooperate with us in collecting data on treatment efforts. We support some of the provisions in both Senate versions on Data Collection. We recommend strongly that they focus on the type of reports they are looking for and leave the data elements to be collected and time frames for performance up to the Secretary. Funding in this area is critical. Standards should be phased in based on clinical research findings matching clients to treatment approaches. As to the proposal to have yearly household and senior class surveys, trends do not change on a yearly basis, such surveys are very expensive, and administratively it takes over a

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year to process and analyze the data. Suggest that between household and senior class surveys the opportunity be used to collect different data through surveys, for example, on dropouts or college students who are missed in the present surveys.

Status

August 8, 1988

Lead Agency: HHS  
Others: OMB

REAUTHORIZATION AND AMENDMENTS TO ALCOHOL,  
DRUG ABUSE AND MENTAL HEALTH (ADAMHA) SERVICES BLOCK GRANT  
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Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Title III, section 3011 -- authorizes ADMS block grant as follows: FY 1988 - \$550.5 million; FY 1989 - \$700 million; FY 1990 - \$868 million; FY 1991 - \$952 million.

Section 3013 -- not less than 35% of funds are to go for programs related to drug abuse.

Bill: Wright (H.R. -- House Dem.)

Establishes three State block grant programs to replace ADMS grants. They include:  
1) \$350 million for Community Mental Health Block Grant; 2) \$475 million for Alcohol and Drug Abuse Grant; and 3) \$250 million for AIDS Block Grant. Detailed formula distribution, with set asides for specific activities mandated. (Amendments to H.R. 4907, Sec. 3)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Reauthorizes and continues the Alcohol, Drug Abuse and Mental Health Services block grant. The funding of the ADAMHA block is increased to \$550 million of which at least 35 percent must be used for drug abuse treatment programs. (Title IV, Sec. 4101)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

We support the authorization of the block grant and the merging of the ADMS and ADTR programs. This is the existing and most appropriate mechanism for funneling federal treatment funds to the states. Additional funds are needed for substance abuse treatment. A formula must be devised to see that this increase does not inadvertently accrue to mental health services, and meets the needs of identified specific drug abuse populations. OMB agrees with the reauthorization and the merging of the two block grant programs. It is concerned, however, that authorization levels are far in excess of the Bipartisan Budget Agreement and that we would increase funding without knowing which modalities are better equipped to deal with drug abusers.

Status

August 8, 1988

## DRUG BILL ANALYSIS SUMMARY

|                                             | Senate      |             |                  | House         |               |             | White House       | Lead Dept;                  |                |
|---------------------------------------------|-------------|-------------|------------------|---------------|---------------|-------------|-------------------|-----------------------------|----------------|
|                                             | <u>Byrd</u> | <u>Dole</u> | <u>DeConcini</u> | <u>Wright</u> | <u>Michel</u> | <u>NDPB</u> | <u>Conference</u> | <u>Others</u>               | <u>Categor</u> |
| <b>B. <u>Education &amp; Prevention</u></b> |             |             |                  |               |               |             |                   |                             |                |
| Drug-Free Workplace.....                    | X           | X           | X                | X             | X             | X           | X                 | DOJ; HHS, OFPP,<br>DOL, DOT | A              |
| Drug-Testing - Criminal Justice System      |             | X           |                  | X             | X             | X           | X                 | DOJ; HHS                    | C              |
| Drug-Free Schools.....                      | X           | X           | X                | X             | X             | X           | X                 | ED; OMB, HHS                | A              |
| Drug-Free Housing.....                      | X           | X           |                  | X             | X             | X           | X                 | HUD; DOJ, OMB               | B              |
| Demand-Side Intelligence Collection...      | X           | X           |                  | X             | X             | X           |                   | HHS; ED, OMB                | B              |
| Public Awareness Campaigns.....             | X           | X           |                  |               |               |             | X                 | HHS; DOJ                    | C              |
| Glamorization of Drugs by the Media...      |             | X           |                  |               |               |             | X                 | HHS                         | C              |
| Native American Program.....                |             | X           |                  | X             |               |             |                   | HHS; OMB                    | A              |
| Withholding of Mass Transit Funds.....      |             | X           |                  |               |               |             |                   | DOT; DOJ                    | B              |
| Increased Research - Demand Side.....       | X           | X           |                  |               |               |             | X                 | HHS; DOJ                    | B              |
| Note: Blanks = no provision X = provision   |             |             |                  |               |               |             |                   |                             |                |

August 8, 1988

Lead Agency: DOJ  
Others: HHS, OFPP, DOL

DRUG FREE WORKPLACE  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Prohibits a private employer from hiring, firing, or taking adverse action against an employee on the basis of a drug test, unless the test was conducted by a laboratory meeting certain guidelines promulgated by HHS. (Sec. 801)

Bill: Byrd (S. Senate Dem.)

Requires all firms seeking Federal contracts to establish a drug free workplace policy; upon a substantial number of employee drug convictions, a company may become ineligible for further Government contracts or aid. (Title I, 1013 - 1018)

Bill: Wright (H.R. House Dem.)

Conditions receipt of Federal contract or grant upon maintenance of a drug free workplace. Company must show that it: 1) published a written statement prohibiting drug use 2) established a drug free awareness program 3) employees must notify employer of any drug conviction 4) sanctions on employees who violate provisions. Contractor can be suspended if: 1) no good faith effort to comply is shown 2) false certification is given 3) contractor fails to carry out above provisions. (HR. 4719, Sec. 2 et seq.)

Bill: Michel (H.R. 4842 House Rep.)

Directs each Federal agency engaged in extending Federal assistance or entering into contracts to require recipients to "maintain a drug free workplace or activity". "A good faith effort" is sufficient to comply with this requirement. The President or his designee will coordinate the activities of all the Federal agencies to ensure consistent implementation. (Sec. 1021)



Bill: Dole (S. Senate Rep.)

Conditions receipt of any federal contract or assistance upon maintenance of a drug-free workplace. (Title I, Sec. 1013 et seq.)

Authorizes HHS, DoL, and Justice to develop non-binding guidelines for employers and employees who desire drug-free workplaces.

Expands OSHA authority to ensure drug-free workplaces, including the designation of drug use in the workplace as an occupational safety or health hazard, and data collection on the use of drugs in the workplace. (As a component of OSHA accident investigations, the agency could conduct mandatory drug tests to determine whether drug abuse contributed to the accident.)

Amends the Rehabilitation Act of 1973 to specify that, for purposes of employment protections, the illegal use of a controlled substance shall be considered to be prima facie evidence of the endangerment of self or co-workers.

Requires mandatory drug testing for Members of Congress and Congressional employees.

Authorizes \$5 million for incentive grants to employers to develop employee assistance programs for drug-abuse treatment.

Authorizes \$15 million for OSHA enforcement and investigation to ensure a safe and healthy workplace.

White House Conference for a Drug Free America

Every private and public workplace must have a strong antidrug work policy that covers every employee. Federal, State and local governments should encourage such policies.

Labor unions and employee associations must promote a drug-free life-style among their membership and in their communities.

The Small Business Administration, with the support of other appropriate Federal agencies and private organizations, must help small businesses adopt and implement drug-free workplace policies.

The Secretary of Commerce should direct an effort by business and trade associations to work together and with the community to promote a drug-free workplace.

Workplace liability and health insurers and worker's compensation carriers should consider offering reduced premiums, associated with the reduced risk, for companies adopting antidrug policies and programs.

Any comprehensive health insurance plan should make available coverage for illegal drug use treatment and rehabilitation programs.

#### National Drug Policy Board

Requires private sector companies that receive federal funds to have drug free workforce (note: "force") plans consistent with the goals and objectives of Executive Order 12564.

Encourage and expand assistance for non federal drug free workforce programs to include technical assistance, public outreach, and a clearinghouse for drug free workforce information.

#### Administration Position

The Administration supports conditioning the receipt of Federal contracts or grants upon the maintenance of a drug free workplace and strongly urges employers to put into place an anti-drug program that includes mandatory testing for drug use. However, we note practical concerns with requiring all tests to meet HHS guidelines, especially tests conducted in the field. Moreover, many well intentioned provisions such as those in S. 2205 would limit and restrain private sector efforts and should be opposed. Specific provisions must be assessed specifically for paperwork, Federalism, and legal implications, particularly with regard to impact on existing collective bargaining agreements.

Bills which intend to withhold Federal "assistance" or "benefits" from employers without adequate Drug Free Workplace programs should clearly specify that the provisions in question apply to businesses, institutions, etc., and not to individuals/non-employers. In the alternative, they should specify how provisions, if any, which apply to individuals are to be read in tandem with other statutory provisions which deny other Federal benefits -- e.g., certain veterans benefits -- on the basis of prior criminal convictions.

Concerning the denial of Federal contracts, such provisions should not require agencies to rescind existing contracts, and should authorize agencies to waive the bar against contracting when necessary to avoid damage to the agency's vital missions.

On the issue of barring Federal contracts to businesses, institutions, etc. which do not put adequate Drug Free Workplace programs into effect, VA concurs with DOJ's observations concerning difficulties associated with the enforcement and administration of such bars.

DOJ strongly opposes the provisions of S. 2205. DOJ has no objection to the Byrd bill provision requiring firms to establish a drug free policy but opposes related Byrd bill provisions; DOJ opposes the Wright bill provisions and most of the Dole bill provisions, particularly those which would limit private sector flexibility by applying structured applicable to government action to private actions or by conflicting with existing collective bargaining agreements. Moreover, these provisions raise a variety of Federalism and paperwork reduction concerns.

State notes that certain of the drug free workplace provisions could apply to the programs of State's Bureau of International Narcotics Matters, which are operated in foreign countries. AID projects and State's anti-terrorism programs could also be affected. The statute should make clear that these provisions are intended to apply to domestic work situations.

#### Status

The Department of Transportation will be testifying before the House Merchant Marine and Fisheries Committee on August 10, 1988, on its proposed rule for merchant mariners.

August 8, 1988

Lead Agency: DOJ  
Others: HHS

**DRUG TESTING -- CRIMINAL JUSTICE SYSTEM**  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Drug Testing for certain arrestees, probationers and parolees (more limited than Michel bill). (H.R. 4916, Title XII)

Bill: Michel (H.R. 4842 House Rep.)

Requires mandatory drug testing of all arrestees for Federal drug related offenses and as a condition of parole. Directs probation officers to conduct random drug testing of probationers. (Sec. 1031-1033)

Bill: Dole (S. Senate Rep.)

Provides for drug tests as a condition for parole or probation with revocation of parole or probation, upon a finding of drug use. Requires testing of all individuals on probation, parole (approximately 74,800) or supervised release on a random basis with everyone being tested at least once every 30 days. Tests to be financed by user fees. (Title II, Sub. D)

White House Conference for a Drug Free America

Criminal justice personnel should test all persons in their custody for illicit drug use, and the results of those tests should be used to make determinations regarding pretrial release, probation, and parole.

Criminal justice agencies should adopt a strong antidrug policy for their employees, including appropriate forms of drug testing.

Persons found to be using drugs while incarcerated should not be eligible for early release.

National Drug Policy Board

Establish in prison and probation/parole systems (a) drug free policy and (b) system of sanctions and incentives to discourage drug use, using drug testing as a measure of drug free status; establish facilities and programs for those drug users unwilling or unable to quit drug use with lesser sanctions.

Administration Position

DOJ has no substantive objections to the Michel bill provisions but believes drafting problems need to be corrected. DOJ opposes the Dole provisions absent a home detention provision or increases in detention facilities, as presenting a problem in increasing the pressure on prison facilities. Other provisions would benefit from modification but are not objectionable.

Status

August 8, 1988

Lead Agency: ED  
Others: OMB, HHS

DRUG FREE SCHOOLS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Makes various changes in grant procedures under the Drug Free Schools Act (e.g., by increasing State reporting requirements). (Sec. 423-430)

Bill: Byrd (S. Senate Dem.)

Amends Drug Free Schools and Communities act to authorize \$445M for FY 1989, \$385M - FY 1990, \$423.5 million for FY 1991, \$465.8 million for FY 1992, and \$512 million for FY 1993. Programs to include training, counseling, referral and outreach. States to submit regular report on effectiveness of programs. (Sec. 3072)

Bill: Wright (H.R. House Dem.)

Place 2.5% cap on Administrative costs under Drug Free Schools Act; specifies that education agencies to use most up to date information. (H.R. 4872, Title unknown)

Bill: Michel (H.R. 4842 House Rep.)

Authorizes \$250 million for drug education grants. Requires collection of additional information with respect to current drug use. Directs states to require a progress report after the first two years of a plan before funding is provided for a third year. Requires states to submit annual plans to the HHS secretary on these state and local programs. (Sec. 1051)

Bill: Dole (S. Senate Rep.)

Restricts Drug-Free Schools money to school systems which have in effect policies to:  
a) notify a parent or guardian and police when possession of a controlled substance by an

unemancipated minor is discovered; and b) separate offenders from drug-free students. (Title I, Sec. 1005)

Authorizes the Secretary of Education to withhold funds from colleges not in compliance with Higher Education Act requirements for a drug-free campus and authorizes the Secretary to promulgate regulations specifying the standards by which the Department--and the public--can judge whether a particular college or university is drug-free.

Authorizes drug testing in schools as an optional component of drug-free campus programs.

Reaffirms Senate support of P.L. 100-297 which reauthorizes \$250 million for school and community based education programs. This effort targets 70 percent of funds to school-based education programs and 30 percent of funds to community-based education efforts.

Requires the development of model criteria and forms for the collection of data and information to evaluate programs funded under this act. This will allow schools and community-based organizations to share uniform data and information with respect to the Drug-free Schools and Communities Act.

#### White House Conference for a Drug Free America

Schools (from kindergarten through high school) and local boards of education must establish and enforce policies and procedures for students, teachers, administrators, and staff that clearly forbid the sale, distribution, possession, or use of all illicit drugs and alcohol on school property or at school-sponsored functions. Parents, students, and community officials should participate in developing and supporting these policies.

Schools must be an active part of "community-wide" efforts to end the use of illegal drugs.

Schools must get parents actively involved in the prevention of drug and alcohol use.

Chief State school officers and State boards of education must ensure that textbooks, curricula, and other materials on alcohol and drugs are accurate and current, that they clearly and consistently carry a "no use" message, and that they integrate education about illicit drugs and alcohol into the existing school curriculum from kindergarten through college.

Colleges and universities must adopt firm, clear, and strongly enforced "no use" drug policies encompassing all members of the college community.

Federal grant money to colleges and universities and for student loans should be contingent upon the institution's having and enforcing "no use" drug and alcohol policies.

States should require all teachers to be knowledgeable about drug and alcohol-related issues for teacher certification.

Amend existing Federal legislation for drug education and prevention programs to assure accountability for results; in other words, tie in continued funding to a measurable decrease in drug and alcohol use.

Funding for school-based drug prevention, education, and awareness efforts should be sustained over an extended period of time and should be contingent upon the effectiveness with which programs reach their stated goals.

#### National Drug Policy Board

Require institutions of higher learning to have drug prevention policies and programs through the provision of federal student aid programs under the Higher Education Act of 1965, as amended.

#### Administration Position

##### Accountability

1. We support the accountability/reporting requirements for States as drafted in S. 2205, the D'Amato/DeConcini bill.

We also generally support the similar enhanced reporting requirements as included in the Senate Democratic and House Democratic draft bill.

We strongly support the Senate Republican and Michel language (H.R. 4842) on State reporting. The Democratic bills have included a part of the added reporting requirements, but the Dole and Michel bills include the toughest accountability measures: a mandatory progress report before third year funding is permitted.



2. Authorization Levels

We oppose the large increase in authorization in the Senate Democratic draft bill. We support the \$250 million authorization as requested in the Michel bill.

3. Administrative Costs

We support the 2.5 percent cap on administrative costs for the governor's funds under Drug Free Schools and Communities Act.

4. Teacher Training Set-Aside

The Senate Democratic draft bill includes a reservation of 25 percent of governor's funds for teacher training programs. We oppose this provision as it further restricts an already heavily earmarked pool of funds originally meant to be discretionary. Teacher training programs are already authorized as an allowable activity under current law and funds need not be "set-aside."

Status

1. User Accountability

Senate Staff bipartisan negotiations seem to have eliminated the two key Senate Republican proposals, (a) the suspension of student loan eligibility for grants and loans due to convictions of drug-related offenses, and (b) the mandated separation of students from the rest of the student population and notification of their parents when found to possess drugs.

2. State Reporting

The accountability language as drafted in the Senate Democratic and House Democratic bills will likely be retained in a compromise agreement reached early in staff talks. We would like to see this undisturbed generally - but would certainly welcome any movement to adopt the tougher Michel language - although that appears unlikely.

3. Teacher Training

We have indicated our strong opposition to the set-aside as drafted in the Senate Democratic bill and may see some shift in that provision to lessen proscriptive text.

August 8, 1988

Lead Agency: HUD  
Others: DOJ, OMB

DRUG FREE HOUSING  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Authorize HUD to make grants to PHA for employing security personnel, reimbursement of local LEAS, physical security improvements, or other innovative programs -- \$10 million for FY 1989. (Title II, S. 2703-2708)

Bill: Wright (H.R. House Dem.)

Revokes public housing benefits for 5 to 10 years for conviction of 1 drug distribution offense or 2 other drug offenses within a 10 year period. (H.R. 4916, Title VIII)

Bill: Michel (H.R. 4842 House Rep.)

Establishes, in the Office of Public Housing, a "clearinghouse" to "receive, collect, process, and assemble" information regarding drug use in public housing projects.

Establishes, within 12 months of enactment, a regional training program for public housing officials to prepare them for dealing with drug abuse. (Sec. 1061-1065)

Authorizes the HUD Secretary to establish a demonstration project and provide grants to public housing projects that establish security systems to prevent drug related crimes, or for the reimbursement of local law enforcement agencies for additional protection. (Sec. 2181)

Bill: Dole (S. Senate Rep.)

Requires an explicit no-drug clause in all new leases in federally assisted PHAs.

Requires an expedited report to Congress from HUD on the actual implementation of the forthcoming regulations to ensure that they are being effectively used to ensure a drug-free environment and protect persons in public housing. (Title I, Sec. 1008-1011)

Requires all PHAs to have a residents' tenant review committee to help screen out drug users and traffickers. (Some PHAs are doing this already.) HUD may waive this requirement for PHAs which make good faith efforts to form such committees but (because of possible retaliation) fail to make them work.

Requires all PHAs to terminate the tenancy of a public housing tenant who is convicted in a State or Federal court of an offense related to the possession, use, manufacture, sale, or distribution of a controlled substance.

Allows blockgrant funds under the Bureau of Justice Assistance to be used to fight drugs in public housing.

Provides enhanced penalties, depending on the drug and quantity, for persons who distribute or manufacture drugs within 200 yards of a public housing project. This provision is based on the schoolyard provision in current law.

White House Conference for a Drug Free America

Public Housing Authorities (PHAs), in cooperation with residents, local governments officials, law enforcement, authorities, and support groups in the private sector should develop and implement procedures that are designed to end drug use and sales in public housing developments.

Public housing residents must take every action to keep their housing units and their developments free of drugs.

Municipalities and county governments should provide the same level of municipal services to public housing developments that they provide to every other part of the community.

Community groups should establish programs for youth emphasizing drug-free lifestyles in public housing.

The State, county and municipal governments should provide adequate law enforcement services to public housing developments.

At least two percent of the Department of Housing and Urban Development's (HUD) Comprehensive Improvement Assistance Program (CIAP) funds should be made available to PHAs for antidrug initiatives.

The Department of Housing and Urban Development and associations such as the National Association of Housing and Redevelopment Officials, the Council of large Public Housing Authorities, the Public Housing Association, the Public Housing Authorities Directors Association, and the National Tenants Organization should provide training on drug-free public housing techniques to PHA staff, residents, drug treatment and prevention experts, law enforcement officials, and the private sector.

#### National Drug Policy Board

Increase federal assistance to State and Local law enforcement through expanded federal support for operational activities such as local Crack Task Forces, improved incentives for local participation in joint operations such as Operation Alliance and the Organized Crime Drug Enforcement Task Forces (OCDETF), support for local law enforcement efforts to achieve drug-free public housing, and user accountability/Zero Tolerance related initiatives.

#### Administration Position

Requires further DOJ/HUD/OMB coordination regarding specific provisions. Provisions for a public housing grants program for security enhancement appear duplicative of existing programs in HUD. DOJ opposes many individual provisions in the Byrd, Wright, Michel and Dole bills.

#### Status

August 8, 1988

Lead Agency: HHS  
Others: ED, OMB

DEMAND SIDE INTELLIGENCE COLLECTION  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Substantially increase funding for drug abuse treatment and other data collection, in order to identify the demographics of drug abuse, the need for treatment, and the availability of treatment programs. Conduct national household drug surveys and collect information on currently non-included groups in such surveys. (Sec. 3014, Sec. 3026)

Bill: Wright (H.R. House Dem.)

Requires data collection on the incidences of alcohol and substance abuse. (Amendments to H.R. 4907 - Title VI)

Bill: Michel (H.R. 4842 House Rep.)

Requires data collection on current drug use for prevention and education purposes.

Bill: Dole (S. Senate Rep.)

Authorizes funds for research on prevention, treatment and drug use to assist State and local drug reduction efforts. (Title IV, 4103 - Title III, Sub.L)

White House Conference for a Drug Free America

#### National Drug Policy Board

Expand demand side intelligence collection to include surveys to provide current and specific information on drug use by geographical areas and by segments of the population to ensure national strategies and programs are appropriately targeted and to measure effectiveness of efforts.

#### Administration Position

While the most efficient and effective way of collecting data would be through the block grant, HHS feels that there is sufficient interest among the states to cooperate with us in collecting data on treatment efforts. We support some of the provisions in both Senate versions on Data Collection. We recommend strongly that they focus on the type of reports they are looking for and leave the data elements to be collected and time frames for performance up to the Secretary. Funding in this area is critical. Standards should be phased in based on clinical research findings matching clients to treatment approaches. As to the proposal to have yearly household and senior class surveys, trends do not change on a yearly basis, such surveys are very expensive, and administratively it takes over a year to process and analyze the data. Suggest that between household and senior class surveys the opportunity be used to collect different data through surveys, for example, on dropouts or college students who are missed in the present surveys.

#### Status

August 8, 1988

Lead Agency: HHS  
Others: DOJ

**PUBLIC AWARENESS CAMPAIGNS**  
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Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Director of National Drug Policy to develop program of dissemination of information to the American Public. (Title II, S. 2809)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Provides for a nationwide awareness campaign concerning the new penalties for drug possession and use. This is to give drug users notice that things have changed, that their illegal activity will no longer be tolerated, and that it will be subject to serious penalties. (Title I, S. 1002)



#### White House Conference for a Drug Free America

Every segment of the media must establish a comprehensive public campaign against illicit drug use.

Local media must work closely with community leaders and citizen groups to combat the use of illicit drugs.

Media messages must also increasingly target people who do not now use illicit drugs and minority populations.

#### National Drug Policy Board

##### Administration Position

The bill places responsibility for the awareness activity in the Office of the Drug Czar. It should be noted that the Office of Substance Abuse Prevention is authorized and has been carrying out awareness activities. We trust that whoever is responsible for the activity described in the bill will work in tandem with OSAP. If there is a shift in responsibility assignment to HHS, we hope that funding for this effort will accompany the function.

DOJ supports in concept, but questions specific provisions and opposes drug czar. All funding provisions must be within the Bipartisan Budget Agreement. DOJ supports the Dole bill provision.

##### Status

August 8, 1988

Lead Agency: HHS  
Others:

GLAMORIZATION OF DRUGS BY THE MEDIA  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Requires implementation of the Domenici provision in the 1986 bill establishing a commission to explore ways in which the media glamorize or legitimate drug abuse and to recommend remedies. Appropriations for President's Media Commission on Alcohol and Drug Prevention: FY 1989 - \$1 million; FY 1990 - \$1 million; FY 1991 - \$1 million.  
(Title I, S. 1023)

#### White House Conference for a Drug Free America

Every segment of the news media and entertainment industries must ensure that its programming avoids any positive portrayal of illicit drug use, and that responsible industry executives reject as unacceptable any programming that does not meet this standard.

The movie rating system, conducted by the Motion Picture Association of America, must take a stronger stance against illegal drugs.

The media must adhere to existing guidelines restricting alcohol and tobacco advertising that target youth.

Student-run media, including high school newspapers and college print and broadcast outlets must actively disseminate accurate information about illicit drug use.

#### National Drug Policy Board

##### Administration Position

This provision insists that the President's Commission on Media established under the Anti-Drug Abuse Act of 1986 be carried out and authorizes funds to do so. We have no comment on this provision.

##### Status

August 8, 1988

Lead Agency: HHS  
Others: OMB

NATIVE AMERICAN PROGRAM  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Reauthorizes "Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986" for training, border interdiction, and eradication on Indian lands at \$78.45 million -- total for 3 years. (Interior Committee, Title IV)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Extends and revises the authorization of appropriation provisions of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986.

Increases funding for the staffing of the 11 youth regional treatment centers called for by the 1986 Anti-Drug Abuse Act. Funding for rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers is also increased.

Emphasizes the family component in the treatment of youth alcohol and substance abuse. Studies have shown that the inclusion of family members significantly increases the effectiveness of such treatment.

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

We have no objection to this provision.

Status

August 8, 1988

Lead Agency: DOT  
Others: DOJ

WITHHOLDING OF MASS TRANSIT FUNDS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Authorize the Urban Mass Transportation Administration (UMTA) to withhold funds from any mass transit system which has not established a comprehensive detection, treatment and enforcement program within 18 months after date of enactment.

White House Conference for a Drug Free America

National Drug Policy Board

#### Administration Position

DOT supports the provision that would clarify the Urban Mass Transportation Administration's existing authority to require anti-drug programs and withhold funds for failure to do so. The Urban Mass Transportation Administration issued a Notice of proposed Rulemaking on July 8, 1988, that would require anti-drug programs. Under the proposed rule implementation of an anti-drug program is a condition of receipt of Federal funds.

DOJ opposes aspects of the Dole provision DOT supports in general. DOJ feels as drafted might harm existing programs and discourage voluntary compliance with desired goals and raises Federalism and paperwork concerns. Modified provisions would not be objectionable.

#### Status

The Urban Mass Transportation Administration has had no contact with the Hill on this provision.

August 8, 1988

Lead Agency: HHS  
Others: DOJ

INCREASED RESEARCH -- DEMAND SIDE  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Increase funding for drug abuse research and training, to determine more effective methods of prevention and treatment and to augment the number of trained drug abuse counselors.

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Provides for the reauthorization of research efforts through the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism. \$183 million is provided for the National Institute on Drug Abuse.

White House Conference for a Drug Free America

The Federal Government should provide substantially greater resources for prevention research, should disseminate the translation of research findings, and should establish regional and national prevention development centers.



Research on the use of illicit drugs must be conducted in several areas: education, prevention, media/entertainment, law enforcement, sports, treatment, and transportation.

National Drug Policy Board

Expand demand-side intelligence collection to include information on (a) treatment capacity and (b) evaluation of effectiveness of programs, particularly those aimed at crack/cocaine addiction.

Administration Position

HHS believes in the importance of research and supports continued funding of this effort.

DOJ supports these provisions to the extent that they are consistent with the President's Budget for 1989. Provisions for 1990 and 1991 should be changed to "such sums" language.

Status

August 8, 1988

## DRUG BILL ANALYSIS SUMMARY

|                                              | Senate      |             |                  | House         |               |             | White House       | Lead Dept;                            |                 |
|----------------------------------------------|-------------|-------------|------------------|---------------|---------------|-------------|-------------------|---------------------------------------|-----------------|
|                                              | <u>Byrd</u> | <u>Dole</u> | <u>DeConcini</u> | <u>Wright</u> | <u>Michel</u> | <u>NDPB</u> | <u>Conference</u> | <u>Others</u>                         | <u>Category</u> |
| <b>II. <u>USER ACCOUNTABILITY</u> -- HHS</b> |             |             |                  |               |               |             |                   |                                       |                 |
| Ineligibility for Federal Benefits.....      | X           | X           |                  | X             | X             | X           |                   | <u>DOJ</u> ; HUD, ED,<br>HHS, VA, DOT | B               |
| Income and Assets - Civil Penalties....      |             | X           |                  |               | X             |             |                   | <u>DOJ</u>                            | C               |
| Suspension of Driver's Licenses.....         |             | X           |                  | X             | X             |             |                   | <u>DOT</u> ; OMB, DOJ                 | B               |
| Exclusion of Drug Abusers As Handicapped     |             |             |                  |               | X             |             |                   | <u>DOL</u>                            | C               |
| Motor Vehicle Related Crimes.....            |             | X           |                  |               | X             |             |                   | <u>DOT</u> ; DOJ                      | B               |

August 8, 1988

Lead Agency: DOJ  
Others: HUD, ED, HHS, VA, DOT

**INELIGIBILITY FOR FEDERAL BENEFITS**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Requires cut-off for five years of certain Federal benefits or licenses (VA or FHA loans, practice before Federal Courts or Federal agencies) upon conviction of a drug offense (for first offenders, the period of the penalty is reduced to six months, with treatment offered as an alternative). (Title II, S. 2801 et seq.)

Bill: Wright (H.R. House Dem.)

Requires cut-off of Federal benefits for 5-10 years for one drug distribution conviction, or two drug offenses within a 10 year period. Does not include retirement, welfare, health or disability. Does include Public Housing and loans provided by agencies of the Federal Government. (H.R. 4916, Title VIII)

Bill: Michel (H.R. 4842 House Rep.)

Denies Federal Benefits to those convicted of 2 or more drug narcotic offenses, or of any offense consisting of distribution of illegal narcotics. Ineligibility for Federal benefits remains in effect for 5 years (for sentences of 1 year or less) or 10 years (all other cases). Federal Benefits are defined as grants, contracts, licenses, and public housing. In cases involving trafficking offenses, Veterans benefits are also denied. (Does not include retirement, welfare, health, or disability benefits.) (Sec. 1001) (Title I, S. 1020-1021)

Withdraws student aid for traffickers or for repeat possession offenders for 5 years for misdemeanor conviction and 10 years for felony conviction. (Title I, S. 1006-1007)

Bill: Dole (S. Senate Rep.)

Denies all Federal Licenses for 10 years in the case of felony convictions and 5 years for misdemeanor convictions of drug or drug-related offenses (State or Federal). Establishes as a general principle the loss of eligibility for any federal benefit or entitlement for specified periods of time depending upon the seriousness of the drug offense. Excludes safety net programs and earned benefits -- e.g., veterans benefits, pensions, social security survivor's benefits..

Suspends eligibility for student aid for any drug conviction which occurs subsequent to the receipt of the loan, for 2 years for the first misdemeanor conviction, and 5 years for a felony or second misdemeanor conviction.

White House Conference for a Drug Free America

National Drug Policy Board

Withdraw federal student aid for one year from students convicted of drug use/possession offenses and permanently withdraws aid from students convicted of drug trafficking offenses.

Administration Position

DOJ opposes the provisions, as drafted, of the Byrd, Wright, Michel, and Dole bills. With major modification and technical correction to improve specificity, administration of such provisions might be feasible, however, the difficulty and likely volume of related litigation out weighs the appeal of all but the licensing provisions. DOJ supports, with technical correction, the provision for denial of federal licenses for certain drug convictions.

VA notes the Michel bill would deny certain veterans benefits to convicted drug traffickers. The Dole bill would apparently exclude "earned benefits -- e.g., veterans benefits..." from its listing of Federal benefits which would be denied to persons

convicted of drug-related offenses. VA would not object to an amendment to the Dole bill consistent with the Michel bill. VA has concerns that the "line," which is statutorily drawn between VA benefits which will be provided notwithstanding criminal convictions, and benefits which will be withheld due to narcotics trafficking, should be drawn with precision. Concerning the question of where the above-referenced "line" should be drawn, VA notes that significant Fifth Amendment issues would be raised were VA to be required to repudiate obligations previously undertaken by contract -- e.g., certain insurance and loan guarantee benefits. Any bill enacted which would result in the withholding of veterans benefits due to prior criminal convictions should specify the means by which VA would be authorized to determine, and verify, whether the claimant has, in fact, been convicted of the statutorily-disqualifying criminal offenses.

DOT supports the denial of federal licenses for certain drug convictions, including operating licenses for air, motor carrier, and vessel transportation. We note that although this proposal could entail practical problems this could be addressed in the rulemaking process.

#### Status

The Department of Transportation has not commented to Congress on this proposal.

August 8, 1988

Lead Agency: DOJ  
Others:

INCOME AND ASSETS -- CIVIL PENALTIES  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

The Attorney General may assess a civil penalty on those convicted of violating the Controlled Substances Act, the Controlled Substances Import and Export Act, or the Maritime Drug Law Enforcement Act consisting of 25% of the offender's adjusted gross income for the last taxable year, or 25% of the offender's net assets. (Sec. 1002)

Bill: Dole (S. Senate Rep.)

DEA to assess penalty of not more than \$250,000 for first violation and up to \$1 million for subsequent violations. (Title II, S. 3402)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

The Administration opposes civil penalties for criminal acts, (which is tantamount to legalization) unless such penalties are assessed in addition to criminal penalties. (The Michel and Dole provisions present problems which could be addressed with drafting assistance and technical correction.) The Administration does not oppose provisions for civil fines in addition to criminal penalties but believes they will be of limited utility.

Status

August 8, 1988

Lead Agency: DOJ  
Others: OMB

SUSPENSION OF DRIVERS' LISCENSES  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Provides authority to suspend or revoke the drivers license if convicted of driving under the influence of drugs. (H.R. 4916, Title XIV)

Bill: Michel (H.R. 4842 House Rep.)

Beginning Sept. 30, 1990, 5% of apportioned funds are withheld from states failing to enact laws which revoke or suspend drivers liscenses for certain narcotic related offenses. Beginning Sept. 30, 1992, 10% of apportioned funds are withheld. States not complying by Sept. 30, 1993 will lose withheld funds. (Sec. 1004)

Bill: Dole (S. Senate Rep.)

Conditions state participation in federal drug programs upon the state's having put into effect, within two years, procedures for suspending eligibility for a driver's license for one year upon conviction of a drug offense. (Title I, S. 1003)

White House Conference for a Drug Free America



### National Drug Policy Board

#### Administration Position

DOJ supports amendment of the Assimilative Crimes Act with technical correction to substitute "any controlled substance (as defined in section 102 of 21 USC 802) for the word "drugs" and other minor modifications to eliminate possible Constitutional problems.

DOJ opposes the Dole provision and Michel provision withholding apportioned Federal highway funds on Federalism principles. The Dole provision is also too restrictive and potentially expensive for states to implement. (See also the provision on Motor Vehicle related crimes.)

DOT supports the withholding of five percent the first year and ten percent every year thereafter of the federal-aid highway funds of those States which do not have in effect or enforce a law which requires the suspension or revocation for not less than six months of the drivers' license of a person convicted of a drug offense under Federal or State law. DOT also supports conditioning State participation in Federal drug program upon the States putting into effect procedures for suspending the eligibility for drivers' licenses for drug convictions. While these proposals could have been interpreted as raising Federalism concerns DOT, believes the need for a drug-free nation is overriding.

#### Status

The Department of Transportation has not commented to Congress on this proposal.

August 8, 1988

Lead Agency: DOL  
Others:

EXCLUSION OF DRUG ABUSERS AS "HANDICAPPED"  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Amends the Rehabilitation Act to exclude drug abusers from the definition of "handicapped individuals" with respect to employment. (Sec. 1046)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

#### Administration Position

DOL's position that the approach to substance abuse in the workplace should be, in the first instance, rehabilitative rather than punitive. This should be accomplished through an amendment to the Rehabilitation Act that: (1) provides protection for those who actively and in good faith pursue rehabilitation, and (2) expressly denies protection to those who do not pursue rehabilitation. As presently drafted, Section 1046 of H.R. 4842 does not appear to serve this goal.

In any event, Section 1046 of H.R. 4842 should not be supported because it would amend the Rehabilitation Act in a way which would create a confusing, circular approach to the question whether a drug abuser is an "Individual with handicaps" under the Act. The amendment first says that a drug abuser is not an "individual with handicaps," if he or she meets certain criteria (having an impairment which substantially limits one or more life activities, etc.). No matter what approach is finally adopted by the Congress, the statutory language addressing Rehabilitation Act protection of drug users should be clear and not subject to varying interpretations.

DOJ supports with qualifications and technical correction.

Education supports the Michel bill's exclusion of drug addicts from the definition of handicapped in the Rehabilitation Act of 1973.

#### Status

Lead Agency: DOT  
Others: DOJ

**MOTOR VEHICLE RELATED CRIMES**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Provides for the applicability of state laws with regards to alcohol and drug use while operating motor vehicles on the special maritime and territorial jurisdictions of the U.S. Also includes provisions for implied consent to testing for drugs and alcohol.

Bill: Dole (S. Senate Rep.)

Withholds highway funds from States which do not randomly test a percentage of first-time drivers within the first year of being licensed and to revoke driving privileges for individuals found to be using drugs or driving under the influence of drugs or alcohol. (Title, Sec. 1019)

Withholds highway funds from States that: a) do not administer drug tests to all drivers arrested for driving under the influence of alcohol; b) that do not prosecute those testing positive on drug tests and do not revoke or suspend for a year driver's licenses for anyone convicted of drug possession; and c) that do not require the successful completion of a drug rehabilitation program as a condition of reapplication for a driver's license.

### White House Conference for a Drug Free America

### National Drug Policy Board

### Administration Position

The Administration supports strict enforcement of State laws against driving under the influence of alcohol or drugs and does not oppose the extension of those laws to the special maritime and territorial jurisdiction of the U.S. The Administration does not object to suspending the license of anyone driving in the special maritime and territorial jurisdiction who refuses a chemical test of his or her blood, breath or urine, when the arresting officer has reasonable grounds to believe that the driver is under the influence of alcohol or drugs. The Administration supports the suspension or revocation of the drivers' licenses of drivers testing positive for drug use and the withholding of federal-aid highway funds from states that do not prosecute those testing positive for drug use or revoking or suspending for a year their drivers licenses. The Administration does not support withholding federal-aid highway funds from states which do not randomly test a percentage of first-time drivers within federal-aid highway funds from states which do not randomly test a percentage of first-time drivers within the first year of being licensed or which do not administer drug tests to all drivers arrested for driving under the influence of alcohol. The Department of Transportation currently is working to develop techniques for detecting drivers operating under the influence of drugs, but, with available technology, these requirements would impose costly burdens on the states. DOT does not think it is feasible to require states to randomly test a percentage of first-time drivers within the first year of being licensed although we do support testing of commercial drivers.

### Status

The Department of Transportation has communicated its support for testing of commercial drivers to Congress many times.

August 8, 1988

## DRUG BILL ANALYSIS SUMMARY

|                                                          |             | <u>Senate</u> |                  | <u>House</u>  |               |             | <u>White House</u> | <u>Lead Dept;</u>            |                 |
|----------------------------------------------------------|-------------|---------------|------------------|---------------|---------------|-------------|--------------------|------------------------------|-----------------|
|                                                          | <u>Byrd</u> | <u>Dole</u>   | <u>DeConcini</u> | <u>Wright</u> | <u>Michel</u> | <u>NDPB</u> | <u>Conference</u>  | <u>Others</u>                | <u>Category</u> |
| <b>III. <u>CRIMINAL PENALTIES/POST ARREST</u> -- DOJ</b> |             |               |                  |               |               |             |                    |                              |                 |
| U.S. Prisoners in Non-Federal Institutions               | X           | X             | X                |               | X             |             |                    | <u>DOJ</u> ; OMB             | A               |
| Death Penalty.....                                       |             | X             |                  |               | X             | X           | X                  | <u>DOJ</u>                   | C               |
| Exclusionary Rule/Habeas Corpus Reform                   |             | X             |                  |               | X             | X           |                    | <u>DOJ</u>                   | C               |
| Additional Prisons and Prosecutors.....                  | X           | X             |                  | X             | X             |             | X                  | <u>DOJ</u> ; OMB             | A               |
| Diversity of Citizenship.....                            |             |               |                  |               | X             |             |                    | <u>DOJ</u>                   | C               |
| Pollution of Lands.....                                  | X           | X             |                  | X             | X             |             |                    | <u>DOJ</u> ; EPA, AG,<br>INT | C               |
| Increased Penalties for Cocaine & Heroin                 |             | X             |                  | X             | X             |             |                    | <u>DOJ</u>                   | C               |

Note: Blanks = no provision X = provision

August 8, 1988

Lead Agency: DOJ  
Other: OMB

**U.S. PRISONERS IN NON-FEDERAL INSTITUTIONS**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Authorizes Justice to make payments to support U.S. prisoners in non-Federal institutions (in essence codifying current practice). Requires surpluses in Assets Forfeiture funds to go to prison construction and/or support of prisoners in non-federal institutions.

Bill: Byrd (S. -- Senate Dem.)

Authorizes contracts and unlimited expenditures from U.S. Marshals appropriations related to the support of U.S. prisoners. Also authorizes contracts or cooperative agreements with states or localities for construction, renovation and equipping of facilities for housing federal prisoners. (Sec. 2155, 2905)

Attorney General in support of US prisoners in non-federal institutions is authorized to make payments from appropriations available to the US Marshal Service without limitation as to fiscal year. (Sec. 2905)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Also authorizes expenditures related to support of U.S. prisoners and other technical amendments relating to forfeiture (Sec. 2155, 2157).

Bill: Dole (S. -- Senate Rep.)

Authorizes expenditures related to support of U.S. prisoners in non-Federal institutions. Authorizes up to \$35 million in expenditures of which up to \$15,000,000 maybe under the Cooperative Agreement Program. (Section 2105).

Specifies that appropriation must be in addition to President's FY 1989 request and other limitations. (Sec. 2002)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

The Administration supports the Dole and Michel bill provisions with such qualifications as agreed to by OMB regarding funding limitations and restrictions.

Status



August 8, 1988

Lead Agency: DOJ  
Others:

DEATH PENALTY  
\*\*\*\*\*

BILL: D'AMATO/DECONCINI (S. 2305 Senate Dem.)

BILL: BYRD (S. Senate Dem.)

BILL: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Individuals who knowingly kill another person while in the course of a continuing drug enterprise are subject to the death penalty. The death penalty will also be invoked if an individual is (or is one of) the principal administrator, organizer, or leader of the enterprise and the drug violation is at least 600 times the quantity specified in Section 401 (b) of the controlled Substances Act.

Includes notification, hearing trial, and appeal procedures to be followed in such cases. (Sec. 2001-2002)

Bill: Dole (S. Senate Rep.)

Establishes constitutional procedures for the implementation of the death penalty for the crimes for which it is currently authorized (murder, treason, espionage) as well as for new crimes such as attempted assassination of the President, drug related murder. (Sec. 3001 - 3017)

White House Conference for a Drug Free America

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Federal and State governments should develop stronger penalties for persons trafficking or distributing illegal drugs.

National Drug Policy Board

Establish constitutional procedures to impose the death penalty in appropriate Federal cases, including for those convicted of killing another while engaged in a continuing drug enterprise.

Administration Position

The Administration supports the Michel and Dole bill provisions with technical corrections; but suggests substitution of the revised Department of Justice proposal.

Status

August 8, 1988

Lead Agency: DOJ  
Others:

EXCLUSIONARY RULE/HABEAS CORPUS REFORM  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Prevents the exclusion of evidence obtained through search and seizure when "the search was undertaken in an objective, reasonable, and good faith belief that it was in conformity with the fourth amendment". (Sec. 2011) No Habeas Corpus Reform.

Bill: Dole (S. Senate Rep.)

Prevents abuses in filing of habeas petitions. Provides for the following reforms: a) establishes a time period for the filing of habeas petitions -- one year for that level, two years for federal level; b) allows the federal court to dismiss habeas petitions that have been "fully and fairly" adjudicated in the State court; c) provides that claims not raised in State courts can not be raised in federal courts; d) allows the federal court to dismiss a habeas petition on the merits even if State remedies have not been exhausted. (Sec. 3051 - 3055)

Exclusionary Rule codifies the Supreme Court Decision in United States v. Leon (1984) which provides that a search conducted pursuant to a warrant is valid if the law enforcement officer exhibits an "objectively reasonable belief" that the search is in conformity with the Fourth Amendment. Extends this exception to warrantless searches.

Also provides that the exclusionary rule may not be used as a sanction for nonconstitutional violations of a federal statute or rule, unless the statute specifically provides for such a remedy. (Sec. 3101 - 3102)

White House Conference for a Drug Free America

National Drug Policy Board

Establish "good faith" exceptions to the exclusionary rule, which prohibits introduction of improperly seized evidence in criminal cases.

Reform habeas corpus procedures to give greater deference and finality to the judgment of State courts.

Administration Position

The Administration strongly supports these provisions. (The Administration supports the Michel bill provision but prefers the Dole provisions which includes Habeas Corpus Reform.)

Status

Lead Agency: DOJ  
Others: OMB

August 8, 1988

ADDITIONAL PRISONS AND PROSECUTORS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Aside from providing substantial increases in funding to courts, prosecutors, and prison resources, the proposal authorizes U.S. Magistrates to accept guilty pleas and impose sentences to alleviate some of the backlog at the District Court level. The proposal authorizes the creation of 20 new judgeships whose assignment will be determined by Congress, following a report from the Judicial Conference regarding the most efficacious placement of the judges to solve the drug case backlog. A significant increase in funding will increase the numbers of Federal prosecutors. Further gives the government the option of housing civilian prisoners on military facilities.

Bill: Wright (H.R. House Dem.)

Authorizes Appropriations for FY 1989 for the Federal Prison System, to be used as specified in the President's budget. (H.R. 4916 A, Sec. 402)

Bill: Michel (H.R. 4842 House Rep.)

Authorizes President's Budget funding levels for the Federal prison system and U.S. attorneys for years 1989 and 1990. Permits the Bureau of Prisons to lease prison facilities under certain conditions. Authorizes the Attorney General to issue "debt instruments" to be used to finance prison construction. (Sec. 2016-2017)

Bill: Dole (S. Senate Rep.)

Authorizes \$200 million for the federal prison system. Specifies that such appropriations must be in addition to the President's fiscal FY 1989 request. (Sec. 2004)

Authorizes \$166 million for Federal courts, drug testing of parolees and probationers, Federal public defender salaries and expenses, salaries of jurors and jury commissioners. Each is additional to any appropriations requested by the President in his FY 1989 budget. (Sec. 2005)

White House Conference for a Drug Free America

Federal, State, and local governments must allocate more resources to all segments of the criminal justice system to combat illicit drug use. In addition, Federal antidrug funds should be available over a 3-year period to allow proper planning for their use.

Additional funds must be appropriated for prison construction.

The training and education of criminal justice personnel in drug-related matters should be dramatically improved.

National Drug Policy Board

Administration Position

The Administration supports increases in prisons and prosecutors as specified in the President's Budget (Wright, Michel) and such additional resources as required to achieve a 4.5 to 1 ratio of investigators to prosecutors, provided such enhancements are in compliance with the Bipartisan Budget Agreement. The Administration also with these qualifications, supports the Dole provisions. The Administration urges that investigative and prosecutorial resource increases be accompanied by parallel resources for the U.S. Courts (judges, magistrates) and pretrial services.

DOJ and OMB disagree on the use of Asset Forfeiture funds for prison construction. A letter outlining DOJ's position has been sent from Frank Keating to Carol Crawford.

Status

August 8, 1988

Lead Agency: DOJ  
Others:

DIVERSITY OF CITIZENSHIP  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Amends U.S. Code to eliminate the practice of filing law suits between two parties in two different states in the Federal Court System. (Sec. 2021)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

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Administration Position

The Administration strongly supports provisions to eliminate diversity of citizenship jurisdiction from the Federal courts. The Michel provision may require minor modifications, however, the elimination of diversity jurisdiction translates into the availability of forty-one already sitting district court judges.

Status



August 8, 1988

Lead Agency: DOJ  
Others: EPA

POLLUTION OF LANDS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Provides penalties of up to 5 years, \$10,000 fine or both for any person in the course of committing an act in violation of Subsection (a)(1), who places or causes to be placed any chemical substance that pollutes or could pollute a body of water or that is harmful to humans, wildlife, etc... (Sec. 2971).

Bill: Wright (H.R. House Dem.)

General overview of the hazardous wastes created by these labs and the development of Task Forces to implement programs for clean-up. (H.R. 4916, Sec. 151-156)

Bill: Michel (H.R. 4842 House Rep.)

Provides for criminal penalties for persons who pollute U.S. lands while manufacturing, distributing or dispensing a controlled substance.

Also provides for criminal penalties for persons who "create a substantial risk of harm to human life" while manufacturing, distributing or dispensing controlled substances. (Sec. 2051-2052)

Bill: Dole (S. Senate Rep.)

Criminal penalty for polluting U.S. lands in the course of drug activities provides for a maximum of five years imprisonment or a fine or both for persons who, in the course of

violating the controlled substances laws, place a pollutant on U.S. lands. (Sec. 3351)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

(Requires coordination with EPA.) The Administration has reservations about the utility and drafting of the Michel provisions but does not oppose them. The Administration has no objection to the Dole and Byrd provisions. DOJ needs to further consult with EPA regarding the Wright provisions.

Status

August 8, 1988

Lead Agency: DOJ  
Others:

INCREASED PENALTIES FOR COCAINE AND HEROIN  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Whoever creates a substantial risk of harm to human life while manufacturing a controlled substance (or attempting to manufacture) shall be fined or imprisoned or both for 10 years.

For: 1st conviction and amount of cocaine (crack) greater than 5 grams; or  
2nd conviction and amount greater than 3 grams; or  
3rd or more convictions and amount greater than 1 gram, penalty would be imprisonment for not less than 5 nor more than 20 years. (H.R. 4916A, Sec. 1301, 1302)

Bill: Michel (H.R. 4842 House Rep.)

Provides for increased penalties for possession of a substance containing "a cocaine base", of no less than 5 and no more than 20 years. Penalties apply under specified conditions and with respect to possession of specific quantities.

Violations of this section involving cocaine or heroine will be subject to a civil penalty of no more than \$100,000 for a first offense and \$500,000 for subsequent violations. Fines collected under this section will be "allocated equally" to drug education, treatment, and state and local narcotics assistance" as prescribed by the Attorney

General. In cases involving violations of the import and export act, fines collected will be deposited in the Department of Justice Assets Forfeiture Fund. (Sec. 2111 - 2112)

Bill: Dole (S. Senate Rep.)

Establishes additional civil penalties for persons convicted of simple possession of heroin or cocaine. First offense -- up to \$250,000, subsequent offenses -- \$1 million. (Sec. 3402)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

The Administration supports the risk of harm/drug lab provision of the Wright bill with modifications. The Administration objects strongly to the Wright bill cocaine penalty provisions because of the unintended impact on the Department of Justice's ability to charge offenses involving multi-gram quantities of crack as trafficking offenses. The Administration does not object to the Michel provisions but would offer technical corrections.

Status

August 8, 1988

## DRUG BILL ANALYSIS SUMMARY

|                                                    | Senate      |             |                  | House         |               |             | White House       | Lead Dept;     |                 |
|----------------------------------------------------|-------------|-------------|------------------|---------------|---------------|-------------|-------------------|----------------|-----------------|
|                                                    | <u>Byrd</u> | <u>Dole</u> | <u>DeConcini</u> | <u>Wright</u> | <u>Michel</u> | <u>NDPB</u> | <u>Conference</u> | <u>Others</u>  | <u>Category</u> |
| <b>III. CRIMINAL PENALTIES/POST ARREST (Cont.)</b> |             |             |                  |               |               |             |                   |                |                 |
| Deportation of Aliens.....                         | X           | X           | X                |               | X             | X           |                   | DOJ; DOS, TR   | C               |
| Alternative Judicial System.....                   |             |             |                  | X             | X             |             |                   | DOJ, TR        | C               |
| Restrictions Relating to Common Carriers           | X           | X           |                  | X             | X             |             | X                 | DOT; DOJ, OFPP | B               |
| Use of Juveniles in Drug Related Crime             | X           | X           |                  |               |               |             |                   | DOJ            | C               |
| Use of House Probation.....                        |             | X           |                  |               |               |             |                   | DOJ            | C               |
| Life Sentences for Drug Dealers...                 |             | X           |                  |               |               |             | X                 | DOJ            | C               |
| Drug Offenses Within Prisons.....                  |             | X           |                  |               |               |             |                   | DOJ            | C               |
| User Fees for Prisoners.....                       |             | X           |                  |               |               |             |                   | DOJ; OMB       | B               |
| Anti-Public Corruption.....                        | X           |             |                  |               | X             | X           |                   | DOJ            | C               |
| Prohibition on the Use of Firearms...              |             | X           | X                |               | X             | X           |                   | TR; DOJ        | C               |
| Use of Firearms in Drug Crimes.....                |             |             |                  | X             |               |             |                   | TR; DOJ        | C               |
| Note: Blanks = no provision X = provision          |             |             |                  |               |               |             |                   |                |                 |

August 8, 1988

Lead Agency: DOJ  
Others: DOS

DEPORTATION OF ALIENS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Establishes procedures for the deportation of "violent criminal aliens." (Sec. 182-185)

Bill: Byrd (S. Senate Dem.)

(Sec. 2401, 2402, 2403, 2404, 2405, 2406):

- any alien arrested under aggravated felony charges, pending a determination of whether he is deportable, shall not be released from custody nor entitled to conditional parole.
- provides criminal penalties for reentry of certain deported aliens.
- provides criminal penalties for aiding or assisting certain aliens to enter the U.S.
- provides criminal penalties for refusal of aliens convicted of an aggravated felony to appear upon subpoena.
- the Attorney General shall provide for the availability of special deportation proceedings by INS for aliens convicted of aggravated felonies.

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Allows the Attorney General to exempt aliens convicted of drug offenses from deportation if the alien has provided assistance in a drug investigation. (Sec. 2201)

Bill: Dole (S. Senate Rep.)

Bars the reentry with visa of aliens deported on criminal grounds.

Eliminates bond for deportation proceedings for alien drug offenders.

Eliminates suspension of deportation.

Bars asylum or withholding of deportation for alien drug traffickers.

Eliminates most of the exclusions, including the drug exclusion, for deportation of a long-term permanent resident of the U.S. when reentering the U.S. from a temporary visit abroad. (Sec. 8001-8020)

Eliminates waivers based on family ties for alien drug traffickers.

Bars alien drug traffickers from voluntary departure.

Increases penalties for failure to comply with conditions of supervision.

Restricts the discretion of the courts to suspend penalties of alien drug offenders who disobey a final deportation order.

Permits deportation for possession of firearms.

Bars asylum and withholding of deportation for any aliens convicted of an aggravated felony.

White House Conference for a Drug Free America

#### National Drug Policy Board

Expedite the deportation of illegal aliens convicted of narcotics related crimes, increase alien excludability based on drug related criminal activity and limit the availability of certain discretionary rights for aliens involved in drug trafficking.

#### Administration Position

DOJ supports the concept of rapid deportation but objects to specific aspects of S. 2205, the Byrd provisions and the Dole provisions and therefore, suggests substitution of the DOJ proposal and/or technical corrections and modifications to the Dole provisions.

State defers to DOJ on the deportation issue. The Department has reservations about the exclusion clauses in these bills, which are not defined in enough specificity for final comment. The Department has the same reservations about the proposal to "limit the availability of certain discretionary rights for aliens involved in drug trafficking". The provision in the Dole bill which overcomes the barring of deportation of alien drug traffickers and aliens convicted of an aggravated felony is in contravention of U.S. treaty commitments (see Sec. 243(h) of the Immigration and Nationality Act).

#### Status



August 8, 1988

Lead Agency: DOJ  
Others:

ALTERNATIVE JUDICIAL SYSTEM  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

The Attorney General shall conduct a study of the feasibility of prosecuting Federal drug related offenses in an alternative judicial manner. (H.R. 4916A, Sec. 1204)

Bill: Michel (H.R. 4842 House Rep.)

Directs the Attorney General to study the feasibility of prosecuting drug related offenses through an alternative or supplemental system, (for example, use of magistrates). A report on this study is due to Congress 180 days after enactment. (Sec. 1003)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

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Administration Position

The Administration does not object.

Status

August 8, 1988

Lead Agency: DOT  
Others: DOJ, OFPP

RESTRICTIONS RELATING TO COMMON CARRIER/DRUG TESTING  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Authorizes testing program for individuals in the operation of aircraft, railroads, trucks, and buses. Requires establishment and maintenance of rehabilitation program for identification and treatment of employees. (Title II, S. 2951-2960)

Amends the Federal Aviation Act and Federal Railroad Safety Act by implementing mandatory random drug testing for those employees responsible for safety sensitive functions. Provides specifics for privacy in obtaining specimens, "non-discriminatory" testing and adopt HHS technical guidelines in testing, etc. (Sec. 2951)

Bill: Wright (H.R. House Dem.)

Increase penalties for operation of common carrier while impaired. Fine or imprisonment of not more than 20 years or both where death results, and not more than 10 years if serious bodily injury. Any other case, fine or imprisonment or both of not more than 5 years. (H.R. 4916, Title XIII - Sec. 1401, 1402)

Bill: Michel (H.R. 4842 House Rep.)

Mandates a \$10,000 fine and/or imprisonment for not more than 5 years for operating in the course of business, a "railroad car, locomotive, bus, watercraft, or aircraft while under the influence of alcohol or drugs".

If drug and alcohol use results in death of another person, the operator will be imprisoned not less than 5 years and not more than 30 years per death, and may be fined \$100,000 per death. Penalties are reduced by 50% for cases involving serious bodily injury. (Sec. 2231-2232)

Amends the Federal Aviation Act to permanently revoke an airman's flight certificate following a conviction for drug trafficking. (Sec. 4071)

Bill: Dole (S. Senate Rep.)

Includes the Danforth provision to require substance abuse testing, including mandatory random testing, of operators and other safety sensitive personnel of aircraft, railroads, and commercial motor vehicles. These provisions would give DOT broad testing authority over federally regulated transport workers were passed 83-7 by the Senate in October, 1987 as part of H.R. 3051, the Air Passenger Protection Act. (Sec. 1017 et. seq. - Title I)

Makes federal certification of a common carrier dependent upon the carrier's commitment to a drug-free workplace.

White House Conference for a Drug Free America

Every private and public transportation organization should have a strong antidrug-policy that is developed and implemented by both labor and management and covers all employees.

Transportation industry liability and health insurers and workers compensation carriers should offer reduced premiums, associated with the reduced risk, for companies adopting effective antidrug policies and programs.

The transportation industry should promote public awareness, especially among young people, that illicit drug use is not tolerated among workers in the transportation industry.

The Federal Government should pass legislation to encourage States to set "no use" of illicit drugs as the standard for all transportation operators, whether commercial or private (not-for-hire), and to assess penalties toward States that do not comply.

The Department of Transportation should establish a clearinghouse to collect, identify, and disseminate information about model antidrug policies, regulations, legislation and standards.

The Department of Transportation should establish a Drug-Free Transportation Working Group composed of public and private sector experts, including operations personnel, to address the long-range issues involving drug use and transportation.

#### National Drug Policy Board

#### Administration Position

To the extent consistent with the Transportation Department's proposed antidrug rules, we support drug testing (including random testing) for workers performing sensitive safety or security-sensitive functions in transportation industries; we consequently support legislation authorizing or mandating such programs. Serious criminal penalties may well have a deterrent effect on the use of drugs; we support the imposition of such penalties, so long as they are not legislated to the exclusion of antidrug programs of the kind the Department has proposed, as a practical matter (we defer to the judgment of Congress on the latter point). With regards to the airman's certificate revocation provision of the Michel bill (should be revised to provide the revocation penalty in the case of a drug violation involving an aircraft) our experience indicates that the NTSB is typically unwilling to revoke licenses for unrelated offenses. We have no objection to the provision of the Dole bill concerning certification of common carriers; we defer to the views of the ICC concerning the effects on the certification process of such a requirement for ICC regulated carriers.

DOJ notes that specific provisions require detailed analysis, but the general concepts may be supported. DOJ has reservations about all the proposals as drafted. Detailed comments are being prepared. Justice also objects to the Wright provisions penalties structure and concurs with DOT on other considerations and drug testing.

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**Status**

August 8, 1988

Lead Agency: DOJ  
Others:

USE OF JUVENILES IN DRUG RELATED CRIMES  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Amends the Controlled Substances Act to provide mandatory minimum penalties for purchase of controlled substances from minors. (Sec. 2935)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Provides for mandatory sentences for selling drugs to minors: 10 years without parole for the first offense, life without parole for the second offense.

Provides enhanced penalties for drug violations that involve the selling within certain distances of a school yard; and the use of juveniles in drug trafficking. (Sec. 3401)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

The Administration has reservations about but does not oppose the Byrd and Dole provisions.

Status



August 8, 1988

Lead Agency: DOJ  
Others:

HOUSE PROBATION  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Provides house probation as a discretionary condition of probation, parole, or supervised released. (Sec. 3601)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

The Administration supports home curfew and detention conditions as a discretionary substitute for pre-release placement and/or as a substitute for reimprisonment for violations of parole for probation. The Michel provision requires technical correction, however, and additional consideration to resource implications for the parole and probation systems.

Status

August 8, 1988

Lead Agency: DOJ  
Others:

**LIFE-SENTENCE FOR DRUG DEALERS**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Imposition of a life sentence without parole for dealers upon their third conviction for a drug trafficking offense. (Current law imposes a mandatory term of 15 years without parole for any felon upon a third conviction, regardless of the type of crime involved. This proposal would specify that three drug related convictions would result in life imprisonment.) (Sec. 3701)

White House Conference for a Drug Free America

Federal and State government should develop stronger penalties for persons trafficking or distributing illegal drugs.

National Drug Policy Board

Administration Position

The Administration supports the Dole provision with technical corrections.

Status

August 8, 1988

Lead Agency: DOJ  
Others:

**DRUG OFFENSES WITHIN PRISONS**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Provides that persons who manufacture or distribute drugs within Federal prisons shall, in addition to any other sentence, be imprisoned for 10 years. Also, provides that inmates who use drugs shall, in addition to any other sentence, be imprisoned for one year.  
(Sec. 3703)

White House Conference for a Drug Free America

National Drug Policy Board

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**Administration Position**

The Administration supports with technical corrections and modifications, including with regard to criminal aliens.

**Status**

Declassified and Approved For Release 2012/08/23 : CIA-RDP90M00005R001500090009-3

August 8, 1988

Lead Agency: DOJ  
Others: OMB

USER FEES FOR PRISONERS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Directs the Attorney General to prepare a plan which would require Federal inmates to pay for the costs of their incarceration or to work after their release to pay for such costs.

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

The Dole bill provision has the Administration's qualified support. (The Administration has concerns about the feasibility of such a plan and believes additional legal analysis is necessary.)

Status



August 8, 1988

Lead Agency: DOJ  
Others:

ANTI-PUBLIC CORRUPTION  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Enacts an anti-public corruption act which enhances penalties for public corruption, including narcotics corruption, to a Class C Felony. This double-edged provision covers public officials who are influenced, as well as "any person" bribing public officials. (Sec. 2911)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Prohibits schemes designed to "deprive or defraud" citizens of the honest services of public officials. Also prohibits schemes designed to interfere with impartial elections. Prohibited schemes must involve the use of the mail service, wire, radio, television, or interstate transportation.

Violators of this provision will be fined and/or imprisoned for no more than 10 years in non drug related cases, and 20 years in drug related cases. (Sec. 2101)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

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National Drug Policy Board

Enact a Narcotics Corruption Act to strengthen enforcement and enhance penalties for narcotics related public corruption.

Administration Position

The Administration supports the narcotics related corruption aspect of the Byrd bill with modification, and strongly supports the Michel provisions, but recommends adoption of the Justice Department's proposals as technically and substantively preferable.

Status

Lead Agency: TR  
Others: DOJ

August 8, 1988

PROHIBITIONS ON THE USE OF FIREARMS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Makes it unlawful to possess a firearm or other dangerous weapon in a Federal courthouse.  
(Sec. 199A)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Establishes a 7-day waiting period for sale of handguns by licensees to nonlicensees (Sec. 903).

Bill: Michel (H.R. 4842 House Rep.)

Requires an additional 10 year sentence for those convicted of assaulting a Federal Officer with a firearm.

Prohibits possession of any firearm or dangerous weapon in a Federal courthouse or court facility except by specified public officials and law enforcement personnel.

Includes other provisions to strengthen penalties for possession of firearms and explosives. (Sec. 2081-2088)

Bill: Dole (S. Senate Rep.)

Increases current mandatory sentences for using firearms in the commission of a crime of violence or drug crime.

White House Conference for a Drug Free America

National Drug Policy Board

Prohibits the possession of firearms in federal courthouses and of explosives in airports; imposes Federal minimum mandatory prison sentences of 5 years for persons convicted of possession of illegal automatic weapons, and of 10 years for using a firearm in an assault on a Federal officer.

Administration Position

Treasury notes that ATF would support the Byrd bill provisions which prohibit possession of firearms and other dangerous weapons on Federal facilities if narrowed to apply only to firearms and if "facility" is more narrowly defined. ATF opposes provisions that prohibit possession or transfer of firearms on private or public school property, because it addresses a purely State and local concern. ATF supports provisions which treat juvenile proceedings as "convictions" for purposes of sentence enhancement under the Armed Career Criminal Act, 18 U.S.C. sec. 924(e), where the defendant has 3 prior convictions for violent felonies or drug trafficking crimes (sec. 2913). ATF could also support provisions which require Federal firearms licensees to report to the Government sales of 2 or more "paramilitary" firearms within 5 consecutive business days to an unlicensed person (sec. 2921), if the term "paramilitary" is defined.

With regard to the DeConcini provisions which would prohibit possession of firearms and other dangerous weapons within any Federal courthouse, ATF would support the amendment if it is incorporated within the Gun Control Act.

ATF would support provisions in the Wright bill that would establish a 7-day waiting period for sale of handguns by licensees to nonlicensees if technical corrections are made.

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ATF would support the Michel bill provisions. These are administration proposals which were prepared by the Justice Department after consultation with ATF. ATF favors these provisions.

DOJ supports both Michel and Dole amendments.

Status

Letters of support have been sent to the House and Senate Judiciary Committees and the Senate Governmental Affairs Committee.

Phil McGuire, Associate Director, Bureau of Alcohol, Tobacco and Firearms, testified August 2 before the Senate Judiciary Committee.

ATF has provided informal technical assistance to various committee and law enforcement subgroup staff.

August 8, 1988

Lead Agency: TR  
Other: DOJ

USE OF FIREARMS IN DRUG CRIMES  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Contains provision making it unlawful to travel from state-to-state or foreign place to acquire a firearm with intent to use it in violating the controlled Substances Act.

Contains provision making it unlawful to transfer a firearm knowing that it will be used in crime of violence or drug crime.

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

Treasury notes that ATF supports the Byrd, Dole, and Michel provisions and has no objection to the Wright bill provisions.

DOJ also supports.

Status

Letters of support have been sent to the House and Senate Judiciary Committees and the Senate Governmental Affairs Committee.

Phil McGuire, Associate Director, Bureau of Alcohol, Tobacco and Firearms, testified August 2 before the Senate Judiciary Committee.

ATF has provided informal technical assistance to various committee and law enforcement subgroup staff.

August 8, 1988

DRUG BILL ANALYSIS SUMMARY

|                                | Senate      |             |                  | House         |               | NDPB | White House<br>Conference | Lead Dept;<br>Others                       | Category |
|--------------------------------|-------------|-------------|------------------|---------------|---------------|------|---------------------------|--------------------------------------------|----------|
|                                | <u>Byrd</u> | <u>Dole</u> | <u>DeConcini</u> | <u>Wright</u> | <u>Michel</u> |      |                           |                                            |          |
| IV. <u>ORGANIZATION</u> -- TR  |             |             |                  |               |               |      |                           |                                            |          |
| Reorganization:                |             |             |                  |               |               |      |                           |                                            |          |
| - DOT/Treasury.....            |             |             | X                |               |               |      |                           | <u>DOT</u> ; TR, DOJ                       | C        |
| - Coast Guard/Maritime Service | X           |             |                  |               | X             |      |                           | <u>DOT</u> ; DOC, DOJ                      | C        |
| - DOJ/Create Drug Division     | X           |             |                  |               |               |      |                           | <u>DOJ</u> , TR                            | C        |
| Drug Czar/NDPB Changes.....    | X           | X           | X                | X             |               | X    | X                         | <u>DOJ</u> ; DOD, OMB<br>TR, DOT, DOS, NSC | A        |

Note: Blanks = no provision X = provision



August 8, 1988

Lead Agency: DOT  
Others: TR

DOT/TREASURY REORGANIZATION  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Transfers the Coast Guard to Treasury; establishes a new Undersecretary of the Treasury for Enforcement and Border Affairs and new offices of "Enforcement and Border Affairs," each headed by an Assistant Secretary and each reporting to new Undersecretary USCG to be switched to function 750. (Sec. 503-504).

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

The Administration believes that the Coast Guard should remain in the Department of Transportation. While drug interdiction is a major activity of the Coast Guard more than three-fourths of its budget is associated with broader transportation functions.

Status

The Director of the Office of Management and Budget (OMB) sent a letter to Senator John Glenn on June 7, 1988, opposing the transfer of Coast Guard to Treasury.

August 8, 1988

Lead Agency: DOT  
Others: DOC

REORGANIZATION -- COAST GUARD AND NATIONAL MARITIME SERVICE  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Recommends a study for reorganizing the U.S. Coast Guard, possibly creating a separate Department, to enhance the Coast Guard's long-term role in drug interdiction (Sec. 1011).

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Restablishes the Federal Maritime Administration as "an administration" in the Department of Transportation and includes within it the Coast Guard and the National Maritime Service. Also establishes within it an Office of Drug Interdiction Coordination to coordinate drug interdiction efforts. Transfers the portion of the National Ocean Service in NOAA related to "charting and geodetic services and marine operations", and the portions of the National Weather Service relating to the data buoy center to the Department of Transportation. Requires the Secretary of Transportation to report to Congress within 1 year of enactment on maritime functions in other agencies and to recommend other functions to be transferred to the Federal Maritime Administration.

Preserves exsisting legal procedures and provides for orderly transition procedures.

Creates within the Coast Guard Reserve a Merchant Marine Reserve whose members will have "special knowledge or expertise regarding merchant marine affairs". (Sec. 4057-4069)

Bill: Dole (S. Senate Rep.)

#### White House Conference for a Drug Free America

#### National Drug Policy Board

#### Administration Position

The Administration opposes any reorganization of the Coast Guard and the Maritime Administration within the context of omnibus anti-drug legislation. The proposed restructuring of Coast Guard and the maritime Administration into a new Federal Maritime Administration would potentially result in government inefficiency and confusion of missions. The Administration also opposes the establishment of a Merchant Marine Reserve component with the Coast Guard Reserve as part of the Omnibus anti-drug legislation.

#### Status

The Department of Transportation has not commented to Congress on this proposal.

August 8, 1988

Lead Agency: DOJ  
Others:

**DOJ/CREATE ORGANIZED CRIME AND DRUG DIVISION**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Established within the Department of Justice the Organized Crime and Dangerous Drugs Division, consisting of several current divisions and programs within Justice, to more effectively combat organized criminal activity involving illegal and dangerous drugs. (Sec. 1054-1057). Creates a Director for the Bureau of Justice Assistance to enhance the collection, analysis, dissemination and publication of information regarding drug control activities at all levels (Federal, State, and local). Eliminates the Office of Justice Programs to further improve the performance of the various Justice Assistance Agencies. (Sec. 2111-2115)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

Strongly oppose all provisions.

Status

August 8, 1988

Lead Agency: DOJ  
Others: DOD, OMB, TR, DOT, DOS, NSC

DRUG CZAR  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Establishes a drug interdiction czar within DOD by mandating appointment of a Deputy Assistant Secretary for Drug Interdiction and Enforcement; the czar must be a civilian. (Sec. 520)

Bill: Byrd (S. Senate Dem.)

Creates a Director of National Drug Control Policy, a cabinet-level position located in the Executive Office of the President, who would be responsible for directing and coordinating all Federal Government activities with respect to both drug supply (interdiction and law enforcement) and drug demand (prevention, education and treatment) (Sec. 1002)

Provides for the termination of the National Drug Enforcement Policy Board (within 90 days of the appointment of the first Director of the Office of National Drug Control Policy), the National Narcotics Border Interdiction System (within 180 days), the White House Office of Drug Abuse Policy (within 90 days), the repeal of the National Narcotics Act of 1984 (within 90 days), and other changes to streamline the drug control effort. (Sec. 1010-1011)

Bill: Wright (H.R. 4916 House Dem.)

Establishes in the Executive Office of the President an Office of Anti-Drug Operations and Policy with 2 Deputies (demand reduction and law enforcement). Positions are appointed by the President and confirmed by the Senate. No person shall serve in these positions while holding other Federal positions. Authorizes Director to direct each department or agency

with drug control responsibilities (Sec. 601). Requires annual submission to Congress of a National and International Drug Control Strategy as well as a coordinated Federal drug budget submission (Sec. 605-606). Terminates the NDPB within 90 days of establishing the New Drug Czar (Sec. 604).

Bill: Michel (H.R. 4842 House Rep.)

Bill: Dole (S. Senate Rep.)

Establishes a Cabinet level Director of Drug Control within the Executive Office of the president, to be appointed by the President with the advice and consent of the Senate.

Authorizes the Director to appoint Deputy Directors in the areas of drug law enforcement and drug demand reduction.

Designates the Director as the Chairman of the Natinal Drug Policy Board.

Transfers those responsibilities now assigned to the board to the Director, specifying that he carry them out after consultatin with the Board.

Authorizes the Director to review and modify budgets of drug relted programs before they are transmitted by civilian agencies or departments to OMB.

Authorizes the Director to transfer up to 5% of funds between drug related programs after notifying the Appropriations Committees.

Designates the Director to serve as primary advisor to the President and Congress on national and international drug control programs and policies and on the implementation of those policies.

Authorizes the Director to temporarily reassign personnel between agencies, with the concurrence of those agencies, in order to implement drug control policies.

Authorizes the Director to assemble a staff to assist him in carrying out his duties.

Abolishes the white House Drug Abuse Policy Office.

Adds the Director to the National Security Council.

Terminates the Director's Office after six year unless Congress determines that there is still a need for the position. (Sec. 5001-5010)

White House Conference for a Drug Free America

Legislation should be proposed and enacted to create the Cabinet-rank position of National Drug Director.

National Drug Policy Board

Mandate by legislation, the statutory responsibilities for the overall drug policy management with the BDPB, as directed in Executive Order 12590.

Provides for the President to designate the Chairman of the cabinet level body to be responsible for the development and implementation of the national drug policy and plan.

Administration Position

DOT opposes enactment of any new authority establishing a "Drug Czar" as unnecessary and undesirable. The NDPB provides an effective mechanism for coordination of the Federal Government's response to the threat of illegal drugs.

State opposes each of the four bills which would create putative "drug czars". there are vital aspects of foreign relations that can only be conducted by or through the Department of State, functions which the Department is not willing to relinquish or subordinate. Moreover, as recent history proves abundantly, Cabinet-level coordination is not only real and working, but is clearly the direction in which organizational improvements should be directed.

DOJ strongly opposes the abolition of the National Drug Policy Board and creation of a "Drug Czar" with operational authority and/or budget control.

DOJ supports the concept of a coordinated Federal drug budget submission.

DOJ does not object to the creation of a cabinet level position to chair the NDPB and coordinate policy and advise the President.

DOJ objects to all provisions which circumvent established procedures of cabinet



government.

DOJ supports permanent and adequate staffing, security and resources for the NDPB and its Chariman.

Status

August 8, 1988

## DRUG BILL ANALYSIS SUMMARY

|                                                  | Senate      |             |                  | House         |               |             | White House       | Lead Dept;                              |                 |
|--------------------------------------------------|-------------|-------------|------------------|---------------|---------------|-------------|-------------------|-----------------------------------------|-----------------|
|                                                  | <u>Byrd</u> | <u>Dole</u> | <u>DeConcini</u> | <u>Wright</u> | <u>Michel</u> | <u>NDPB</u> | <u>Conference</u> | <u>Others</u>                           | <u>Category</u> |
| V. <u>LAW ENFORCEMENT/INTERDICTION</u> -- TR/DOT |             |             |                  |               |               |             |                   |                                         |                 |
| A. <u>Investigations</u>                         |             |             |                  |               |               |             |                   |                                         |                 |
| Chemical Diversion/Precursor Chemicals           | X           | X           | X                | X             | X             | X           |                   | <u>DOJ</u> , TR                         | C               |
| Electronic Comm./Financial Privacy....           |             |             |                  |               | X             | X           |                   | <u>DOJ</u> ; FCC,<br><u>DCI</u> , TR    | C               |
| Money Laundering.....                            | X           | X           | X                | X             | X             | X           |                   | <u>TR</u> ; <u>DOJ</u> , <u>POSTAL</u>  | C               |
| Expansion of Forest Service Authority.           | X           | X           |                  | X             | X             |             |                   | <u>DOJ</u> ; AG                         | C               |
| Expansion of Postal Service Authority            |             | X           |                  | X             | X             | X           |                   | <u>DOJ</u> ; <u>POSTAL</u> , <u>DOT</u> | C               |
| Improvements of Monetary Rewards.....            |             | X           | X                |               | X             | X           |                   | <u>DOJ</u> ; <u>DOS</u> , TR            | C               |
| Task Force on Clandestine Drug Labs..            |             |             |                  | X             | X             |             |                   | <u>DOJ</u> ; EPA                        | C               |
| Expansion of FAA Authority.....                  | X           |             |                  | X             |               | X           |                   | <u>DOT</u> ; <u>DOJ</u> , TR            | C               |
| Expansion INS of Authority.....                  |             | X           | X                |               |               |             |                   | <u>DOJ</u> ; <u>DOS</u> , TR            | C               |
| Programs in Insular Areas.....                   |             |             |                  | X             |               |             |                   | <u>DOJ</u> ; TR, INT,<br>OMB            | C               |

Note: Blanks = no provision X = provision

Lead Agency: DOJ  
Others:

August 8, 1988

**CHEMICAL DIVERSION/PRECURSOR CHEMICALS**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Establishes a new regulatory scheme concerning the sale and distribution of "precursor" and "essential" chemicals (i.e., those used in manufacturing controlled substances); creates criminal penalties for violations. (Sec. 154-161)

Bill: Byrd (S. Senate Dem.)

Requires recordkeeping of transactions involving precursor and essential chemicals as specified by the Attorney General and regulates the import and export of listed chemicals (a 15-day notification is required). (Sec. 2202-2204)

Bill: Wright (H.R. House Dem.)

Includes provisions of the Chemical Diversion and Trafficking Act which require recordkeeping on transactions related to the sale of precursor and essential chemicals as well as tableting and encapsulating machines. Requires Attorney General to report annually to Congress (H.R. 4916, Sec. 102). Requires notification to the Attorney General of importation and exportation of certain chemicals and allows the Attorney General to suspend transactions if they may be diverted to clandestine labs (H.R. 4916, Sec. 103).

Bill: Michel (H.R. 4842 House Rep.)

Requires those who manufacture and distribute drugs to maintain records (for 5 years) and make reports as specified by the Attorney General through regulation, on the distribution, receipts, sale, importation and exportation of precursor chemicals. (Precursor chemicals

are used in the manufacturing of both legal and illegal drugs.) The Attorney General is given discretion in determining the information needed to meet this requirement. (Sec. 2062)

Also, prohibits the distribution, sale or transfer of commercial tableting or encapsulating machines without a certification of lawful use.

Allows the Attorney General to collect information relating to the distribution, sale or other transfer of commercial tableting or encapsulating machines through regulation.

Persons convicted of violations of this section are prohibited from conducting certain business activities for a minimum of 10 years. (Sec. 2066)

Violations of this section are subject to forfeiture provisions. (Sec. 2067)

Requires the Attorney General to maintain "an active" program to curtail the diversion of precursor chemicals used in the manufacturing of illegal drugs. (Sec. 2061-2072)

Bill: Dole (S. Senate Rep.)

Amends Controlled Substances Act to establish a system for reporting on the manufacture and sale of precursor and essential chemicals used in the production of illegal drugs (the "Chemical Diversion and Trafficking Act of 1988"). Includes new penalties for failure to comply with this Act. (Section 3551-3558)

Provides \$45 million for domestic investigations. This includes implementation of the precursor chemical provisions and \$6 million for anti-gang activities.

White House Conference for a Drug Free America

#### National Drug Policy Board

Establish a system for reporting on the manufacture and sale of precursor and essential chemicals used in the production of illegal drugs.

Administration Position

State supports the position taken by NDPB regarding establishment of a system for reporting, noting that the Wright and Dole bills both contain elements of the Chemical Diversion and Trafficking Act of 1988, which we understand Justice supports.

DOJ supports the relevant provisions of S. 2205 and urges enactment.

DOJ objects to provisions in H.R. 4916 which weaken penalties and other provisions which require modification and technical correction.

DOJ supports sections 2062-2072 of the Michel bill and urges enactment, with technical corrections of other provisions in the Michel bill.

DOJ objects to section 2211 of the Byrd bill.

Status

Lead Agency: DOJ  
Others: FCC

August 8, 1988

**ELECTRONIC COMMUNICATIONS/FINANCIAL PRIVACY**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Electronic communications providers may provide a government agency with the name and address of customers. (Sec. 2090)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Enact amendments to plug holes in current law regarding penalties for continuing criminal enterprises, methamphetamine violations and other drug offenses; expanded forfeiture provisions; financial privacy notification requirements; and electronic communication intercept provisions.

#### Administration Position

The Administration supports with technical corrections.

Disclosure by Electronic Communication Providers. Section 2090 of the bill, pp. 74-75 amends 18 U.S.C. 2703 to allow greater cooperation between providers of electronic communication services and the government. It would add a provision stating that providers of such service may, in response to a written request, disclose to a governmental entity any publicly available information and the name and address of a customer of such service whose telephone number is provided to the service by a government entity. We support the thrust of this provision but believe it does not go far enough. We think the cooperation contemplated by the section should be made mandatory and that a written request from the government should not be necessary. Accordingly, we recommend that the word "may" in line five, page 75 be replaced with the word "shall" and that the phrase "in response to a written request" on line six, page 75 be replaced with "in response to a written or oral request".

#### Status

August 8, 1988

Lead Agency: TR  
Others: DOJ, Postal Service

**MONEY LAUNDERING**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Permits fines to be imposed for the costs of prosecution and investigation of certain offenses (e.g., money laundering). Sec. 188(h)

Bill: Byrd (S. Senate Dem.)

Amends the Money Laundering Act to require that foreign banks with branches or subsidiaries operating in the United States maintain records of U.S. currency transactions.

Bill: Wright (H.R.4916 House Dem.)

Amends the Bank Secrecy Act to: prohibit financial institutions from issuing or selling certain monetary instruments of \$3,000 or more to an individual without identification; give the Secretary of the Treasury discretionary authority to target domestic financial institutions in certain geographic areas and require specified monetary transaction records and reports.

Amends the Right to Financial Privacy Act of 1978 by adding a subsection that exempts the requirement to notify insiders of financial institutions under the Act and permits a financial institution to provide financial records of insiders of such institutions to Federal or State law enforcement agencies.

Amends Title 31 USC to make the Postal Service an appropriate supervising agency for enforcement purposes under the Bank Secrecy Act. (Sec. 502)



Provides an exemption for bona fide attorneys fees from Money Laundering Control Act.

Bill: Michel (H.R. 4842 House Rep.)

Requires the reporting of certain electronic fund transfers and consequences regarding knowingly conducting financial transactions that involve proceeds of unlawful activity.

Violations of this section involving cocaine or heroine will be subject to a civil penalty of no more than \$100,000 for a first offense and \$500,000 for subsequent violations. Fines collected under this section will be "allocated equally" to drug education, treatment, and state and local narcotics assistance" as prescribed by the Attorney General. In cases involving violations of the import and export act, fines collected will be deposited in the Department of Justice Assets Forfeiture Fund. (Sec. 2121 - 2122)

Bill: Dole (S. Senate Rep.)

Includes improvements and corrections to money laundering enforcement.

Includes various technical amendments to 18 USC Sec. 1956-1957, also improves the forfeiture authority relating to money laundering offenses. Amends the Right to Financial Privacy Act, including adding paragraphs that exempt the requirement to notify any "officer, director, employee, major borrower (whose loans total \$500,000 or more) or controlling shareholder" and permits sharing of information to the Attorney General or State law enforcement agencies.

Amends the Bank Secrecy Act to include the Postal Service as an appropriate supervising agency. Also amends the Bank Secrecy Act to require financial institutions that sell monetary instruments to verify the identification of the person purchasing such instruments.

Amends Section 21(b) of the Federal Deposit Insurance Act and P.L. 91-508. (Section 3301-3305)

Amends Internal Revenue Code of 1986. (Section 3306)

White House Conference for a Drug Free America

### National Drug Policy Board

Improve Money Laundering laws to affirm federal authority to conduct "sting" operations, add tax evasion as a predicate money laundering offense, and otherwise strengthen enforcement.

### Administration Position

With respect to money laundering and financial privacy, Treasury has no strong objection to any provision in the House bills or in the Byrd bill (with the exception of section 5503 of the Byrd bill on foreign bank BSA reporting). These bills simply are inadequate on scope.

DOJ supports the Michel/Dole bill provisions with technical amendments and modifications which are detailed in the legislative proposal worked out by DOJ and Treasury as part of the NDPB process. (Objections to specific provisions of the House and Senate bills are attached but DOJ defers to Treasury to express agreements between the agencies on the details of the NDPB proposal.)

### Status

A letter from Secretary Baker was sent to Senators Proxmire and Garn to remove the Kerry proposal.

Letters sent from Secretary Baker to Republican Leader Michel, and Reps. Shaw, Fish, McCollum, Wylie and Wortley in support of Treasury's money Laundering proposals.

Treasury is providing informal technical assistance verbally and in meetings with House and Senate Committee and subgroup staff.

Deputy Assistant Secretary for Enforcement Hilsher testified June 8 before House Committee on Banking, Finance and Urban Affairs.

The Internal Revenue Service is providing technical assistance with the Senate Law Enforcement subgroup.

August 8, 1988

Lead Agency: DOJ  
Others: Agriculture

NATIONAL FOREST SERVICE  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Congress finds that the NFS needs more authority to adequately deal with drug-related and other crimes that affect the administration of the NFS. Specifically, it needs to be able to investigate outside the NFS boundaries with regard to crimes committed within the NSF system. The NFS Drug Control Act of 1986 is amended so that agents and officers of the NFS can make arrests without warrants if there is probable cause that a felony is committed in their presence that either occurs within the NFS or affects the administration of the NFS. The NFS also will cooperate with the Attorney General in carrying out seizures and forfeitures, and the Secretary of Agriculture is authorized to designate law enforcement officers of any other Federal agency (to assist the NFS) when deemed appropriate. The NFS is authorized to accept law enforcement designation from any other Federal or State agency of political subdivision thereof for cooperating in multi-agency task force operations. (Sec. 2966-2969)

Bill: Wright (H.R. 4916 House Dem.)

Allows the Secretary of Agriculture to designate Forest Service officers to enforce criminal laws relating to controlled substances manufactured or distributed on National Forest Service land (Sec. 1004).

Applies provisions of Title XV of ADAA '86 to Forest Service special agents and law enforcement officers in general instead of 500 officers. Allows Forest Service to conduct drug law enforcement activities outside national forest boundaries. Specifies that Forest

Service must coordinate with DEA and FBI. Allows Forest Service to deputize law enforcement personnel from other Federal agencies.

Authorizes \$10 million annually for Forest Service drug law enforcement activities.

Eliminates need for a formal agreement between the Secretary of Agriculture and the Attorney General. (Interior Section 2)

Bill: Michel (H.R. 4842 House Rep.)

Authorizes law enforcement personnel in the Forest Service to make arrests outside the boundaries of the National Forest System when they are in hot pursuit of a suspect. Forest Service law enforcement personnel are directed to coordinate their efforts with DEA and FBI. (Section 2131)

Bill: Dole (S. Senate Rep.)

Grants general arrest authority to Forest Service law enforcement officers outside of the National Forest system. Also grants Forest Service law enforcement officers the authority to conduct investigations of offenses committed in the National Forest System and not being investigated by any other Federal agency. An exception is made for Section 841 of Title 21, the Controlled Substances Act, where Forest Service personnel are to act under cross-designation from DEA. (Section 12001-12003)

Authorizes the Secretary of Agriculture to deputize law enforcement officers of any other Federal agency, when the Secretary determines deputization to be economical and in the public interest, and with the concurrence of that agency, to exercise the powers and authorities of the Forest Service while assisting the Forest Service in the National Forest System, or for activities administered by the Forest Service. (Section 12004)

Enhances the booby-trap penalty provisions of the 1986 Anti-Drug Abuse Act. (Section 12005)

White House Conference for a Drug Free America

### National Drug Policy Board

#### Administration Position

The Forest Service and the Drug Enforcement Administration are in the process of developing a cross-designation implementation program. Once this program is implemented it is doubtful that additional Title 21 authority for the Forest Service would be necessary.

Other proposed legislation would provide clarification of Forest Service law enforcement authority, (ex. authority for the Secretary of Agriculture to deputize; removal of the 500 person limit on the number of Forest Service law enforcement personnel who may be authorized to enforce Title 21 and other general law enforcement authority). This legislation is needed in order to improve the current Forest Service law enforcement program.

The Dole bill provides for the above authorities. It also specifies that Forest Service involvement in investigations of Title 21 offenses outside the boundaries of the National Forest System will be under DEA cross-designation.

DOJ strongly opposes this section of the Wright bill. The Drug Enforcement Administration was created by Congress to consolidate the existing, fragmented federal anti-drug law enforcement efforts. To advance that purpose, the Attorney General recently designated DEA as the lead federal drug enforcement agency. This proposed section countermands that purpose. By providing the NFS with title 21 authority, it weakens coordinated federal law enforcement efforts. Diffusing Title 21 authority decentralizes intelligence, imperils operations, and endangers lives of sources and law enforcement personnel. An existing Memorandum of Understanding between the Attorney General and the Secretary of Agriculture provides procedural guidelines when cases require the NFS to use their investigative and enforcement powers outside the boundaries of the National Forest System. Amendments to this MOU can be made if any adjustments are required. DOJ opposes.

#### Status

August 8, 1988

Lead Agency: DOJ  
Others: Postal Service, DOT

EXPANSION OF POSTAL SERVICE AUTHORITY  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. 4916 House Dem.)

Provides authority to investigate criminal matters related to the USPS and the mails.  
Establishes a Postal Forfeiture Fund (Sec. 1001).

Bill: Michel (H.R. 4842 House Rep.)

"To the extent provided in an agreement between the Attorney General and the Postal Service", permits Postal Service employees (with authority to make arrests), to perform enforcement functions with respect to illegal drugs involving the mail. Also includes forfeiture provisions. (Sec. 2141)

Bill: Dole (S. Senate Rep.)

Amends 18 USC Section 981 to include U.S. Postal Service. (Section 3501)

White House Conference for a Drug Free America

National Drug Policy Board

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Provide for FAA, Postal Service, other federal employees, and airport passenger and baggage screeners who in the course of their normal duties of inspection identify illegal drugs or large amounts of currency that may be related to drug trafficking to report the information to federal law enforcement officers.

Administration Position

DOJ objects to provisions of H.R. 4619, and supports with technical corrections H.R. 4842 and section 3501 of the Dole bill.

Status

August 8, 1988

Lead Agency: DOJ  
Others: DOS

**IMPROVEMENTS OF MONETARY REWARDS**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Authorizes rewards of up to \$10,000 for information leading to the capture of certain fugitives. (Sec. 199)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Requires the Attorney General to conduct a study on how to assist enforcement efforts by improving the reward system. This report is due to Congress with 180 days after enactment. (Sec. 2191)

Bill: Dole (S. Senate Rep.)

Provides for rewards for citizens who provide information on drug dealers to authorities; money to come from a pool of forfeited assets.



White House Conference for a Drug Free America

National Drug Policy Board

Increase resources available for rewards for the capture and conviction of drug traffickers; and for international training for anti drug operation; and, for computerized border management systems to identify and monitor cross border movement of drug traffickers and terrorists.

Administration Position

The Department of State, which already has authority for a system or rewards related to the arrest and prosecution of major drug traffickers, supports an authorization and appropriation of funds for this purpose. The DeConcini, Michel and Dole bills essentially speak to domestic enforcement.

DOJ supports these provisions with technical correction.

OMB opposes funding increases which would violate the Bipartisan Budget Agreement without appropriate offsets.

Status

August 8, 1988

Lead Agency: DOJ  
Others: EPA

**TASK FORCE ON CLANDESTINE DRUG LABORATORIES**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Establishes a joint DEA/EPA task force for hazardous waste destruction (H.R. 4916, Sec. 151-156).

Bill: Michel (H.R. 4842 House Rep.)

Establishes a Task Force consisting of members from both EPA and DEA to formulate a plan for the cleanup and destruction of illegal drug labs.

This task force is required to submit a report to the President and the Congress describing this plan within 120 days of enactment. (Sec. 2221-2226)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

#### Administration Position

The Administration supports the Michel provisions (H.R. 4842). Subtitle V of Title II of the bill (sections 2221-2226) provides for the establishment of a task force to implement a program for the cleanup and disposal of hazardous waste from clandestine laboratories. In reviewing the anti-drug strategies of the states, we have found that they are often not equipped to handle such situations. The task force would be extremely useful to state and local governments and would aid in reducing the public health hazards caused by chemicals. We recommend, however, that Subtitle V contain language stating that the Drug Enforcement Administration is not to be considered a generator of hazardous waste.u

#### Status

August 8, 1988

Lead Agency: DOT  
Others: DOJ, TR

EXPANSION OF FAA AUTHORITY  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Establishes new aircraft reporting requirements.

Bill: Wright (H.R. House Dem.)

Amends the Federal Aviation Act of 1958 to give FAA a role in assisting law enforcement agencies in the enforcement of laws relating to the regulation of controlled substances to the extent consistent with aviation safety.

Directs FAA, through a rulemaking process, to address certain deficiencies and abuses identified by drug enforcement agencies with respect to registering of aircraft, certificating of pilots, and processing of major repairs or alterations of aircraft fuel tanks and fuel systems.

Bill: Michel (H.R. 4842 House Rep.)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

#### National Drug Policy Board

Provide for FAA, Postal Service, other federal employees, and airport passenger and baggage screeners who in the course of their normal duties of inspection identify illegal drugs or large amounts of currency that may be related to drug trafficking to report the information to federal law enforcement officers.

#### Administration Position

Treasury supports provisions on the modification of Airman Certification procedures, and fuel system alterations provisions. On the issue of running without lights, Treasury notes this provision should be supported but modified. The technical portions of this amendment should be supported. Actions violating FAA safety regulations (e.g., running without lights), however, should be subject to stiff civil penalties. The civil penalty provision should be established in a manner paralleling 19 U.S.C. 1590 which sets up a presumption when an aircraft is flying without lights that it is engaged in smuggling and that this presumption must be overcome by the pilot to prevent imposition of the penalty. On the issue of transponders, Treasury notes Administration action has already surpassed this provision. This provision should not be supported. A study of this issue is no longer necessary, because the FAA is already addressing it.

DOJ supports the FAA language provided by DOT (to NDPB) as a substitute to the Wright bill language on FAA law enforcement assistance.

#### Status

August 8, 1988

Lead Agency: DOJ  
Others: DOS

EXPAND INS AUTHORITY  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Permits INS, as part of the Organized Crime Drug Enforcement Task Force in New York city, to hire non-Federal law enforcement officers if "insufficient" Federal officers are available. (Section 195A)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Expands RICO predicate offenses to include acts that are indictable as a felony violation of the Immigration and Nationality Act. (Sec. 8014)

Authorizes the INS to access the National Crime Information Center data base and other enforcement computerized indexes. (Sec. 8016)

Subject to the supervision of the Attorney General, provides general law enforcement authority to immigration officers permitting them to enforce criminal violations of

federal law encountered during the course of their duties, subject to the supervision of the Attorney General. (Sec. 8017)

Permits limitation or denial of nonimmigrant visas to nationals of major drug producing or drug-transit countries which have neither cooperated fully with the United States nor have taken adequate steps on its own to prevent drug related activities. (Sec. 8018)

Requires certified copies of conviction records to be provided to INS. (Sec. 8019)

Requires that each alien excluded from the U.S. under the Immigration and Nationality Act have his travel documents stamped to indicate the attempted date of entry and denial of admission. (Sec. 8020)

#### White House Conference for a Drug Free America

#### National Drug Policy Board

##### Administration Position

State opposes the Dole provision which would authorize INS, which currently has no authority over non-immigrant visas, to deny or limit nonimmigrant visas to nationals of major drug producing or transit countries which have not cooperated fully with the U.S. (see certification procedures under Sec. 481(h) FAA). Granting of visas is a State function. The bill would not only deny visas to drug traffickers, the only persons appropriately affected by sanctions associated with denial of certification, but could also deny visas to diplomats, artists, businessmen, students, etc.

DOJ supports the Dole provisions with modifications.

The Administration supports the screening process and has provided to the NDPB a drafting service to amend the FAA act to allow for airport passenger and baggage screeners to inspect for illegal drugs or large amounts of currency, previously provided to OST which states:

"Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. app. 1356(a)) is amended by inserting the following after the second sentence thereof:

The regulations prescribed pursuant to this section shall further provide that persons who screen passengers and property shall, in the course of such screening and incidental to their primary functions of screening to assure security against acts of criminal violence and aircraft piracy in air transportation and intrastate air transportation, inform appropriate law enforcement personnel of the presence of (a) a controlled substance, as such a substance is defined in section 609(c) of the Federal Aviation Act of 1958, as amended and which is listed in Schedules I or II of controlled substances, or is present in large quantities not dispersed by a pharmacy; or (b) a large sum of money."

Status



August 8, 1988

Lead Agency: DOJ  
Others: TR, INT, OMB

PROGRAMS IN INSULAR AREAS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Authorizes DEA, FBI, Secret Service, INS, and Customs to investigate any U.S. criminal laws that are applicable in Palau in cooperation with law enforcement agencies in Palau.

Amends the U.S. Insular Areas Drug Abuse Act of 1986 by adding a provision requiring DEA to station not fewer than four agents in Guam who shall be assigned to the Micronesian region. Authorizes a \$500,000 grant to the Government of Guam for "drug abuse law enforcement equipment."

Requires DEA to station not fewer than four agents in the Virgin Islands who shall be assigned to the eastern Caribbean region.

Authorizes grants for American Samoa (\$700,000), Guam (\$500,000) Northern Mariana Islands (\$125,000), Puerto Rico (\$7 million) Virgin Islands (\$2 million), and Palau (\$500,000) to be spent in accordance with a plan to be approved by the Sec. of Interior in Consultation with the Attorney General and the Secretaries of Education and HHS.

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

Treasury notes this provision should be supported.

DOJ opposes legislative allocation of limited law enforcement resources as micromanagement.

Status

August 8, 1988

## DRUG BILL ANALYSIS SUMMARY

|                                           | Senate |      |           | House  |        | NDPB | White House<br>Conference | Lead Dept;<br>Others | Category |
|-------------------------------------------|--------|------|-----------|--------|--------|------|---------------------------|----------------------|----------|
|                                           | Byrd   | Dole | DeConcini | Wright | Michel |      |                           |                      |          |
| B. <u>Interdiction</u>                    |        |      |           |        |        |      |                           |                      |          |
| Increased Use of DOD.....                 |        |      |           | X      | X      | X    |                           | DOD, TR, DOT,<br>DOJ | A        |
| Study of Flight Corridors.....            |        |      |           | X      | X      |      |                           | DOT; TR              | C        |
| Expansion of Coast Guard Authority        | X      | X    |           | X      | X      |      |                           | DOT; TR, DOD         | B        |
| Great Lakes Drug Interdiction.....        |        |      |           | X      | X      |      |                           | DOT; TR, DOD,<br>DOS | C        |
| Port of Entry/Cargo Inspection....        |        | X    |           |        | X      | X    |                           | TR; DOT              | C        |
| Maritime Drug Smuggling Reform....        |        | X    |           | X      |        | X    |                           | DOT; TR, DOS         | C        |
| Expansion of Customs Authority....        | X      | X    | X         | X      | X      |      |                           | TR; DOT, DOJ         | B        |
| Treasury Enforcement.....                 | X      |      | X         |        |        |      |                           | TR; DOJ              | B        |
| U.S. Vessel Identification.....           |        |      |           |        | X      |      |                           | DOT; TR              | C        |
| Airline Anti-smuggling.....               |        | X    |           |        |        |      |                           | TR; DOT              | C        |
| Passport Restrictions.....                | X      | X    | X         |        |        | X    |                           | DOS; DOJ, TR         | B        |
| U.S. Bahamas Drug Task Force.....         | X      |      |           |        |        |      |                           | DOS; DOJ, TR,<br>DOT | A        |
| Innocent Owners Seizures.....             |        |      |           | X      | X      |      |                           | TR; DOT, DOJ         | C        |
| Air Smuggling.....                        | X      | X    |           | X      | X      |      |                           | DOT; TR              | C        |
| Note: Blanks = no provision X = provision |        |      |           |        |        |      |                           |                      |          |

August 8, 1988

Lead Agency: DOD  
Other: TR, DOT

INCREASED USE OF DOD  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Require Navy to provide Coast Guard with three radar surveillance aircraft, as long as Navy Mission not affected.

Bill: Michel (H.R. 4842 House Rep.)

Requires the President to:

Deploy "equipment and personnel" of the Armed Forces to stop the penetration of U.S. borders by aircraft and vessels transporting narcotics (within 60 days of enactment). Military personnel will be used to "locate, pursue, and seize" these vessels and arrest crew members;

Use the National Guard to carry out the provisions in this act;

Deploy enough radar aircraft to ensure continuous surveillance of the southern U.S. border;

"substantially halt the penetration of U.S. borders by aircraft and vessels carry narcotics within 45 days of enactment"; and

Provide 2 reports to Congress; one on the effectiveness of this program and its impact on military readiness (due within 60 days of enactment), and one on funding requests (due within 90 days of enactment). (Sec. 4001)

Includes a requirement beginning in 1990 that establishes a separate budget function for the DOD drug interdiction program.

Bill: Dole (S. Senate Rep.)

#### White House Conference for a Drug Free America

#### National Drug Policy Board

Increase the appropriate use of DOD resources, such as training teams, technical assistance, intelligence gathering, and equipment in support of law enforcement interdiction and destruction of drug manufacturing facilities in cooperating foreign nations.

Expand the role and level of DOD military support by designating surveillance and detection in support of drug law enforcement efforts as a mission of the DOD military; DOD will expand the role of the National Guard, increase training resources, and drug enforcement operational support. Additionally, urge Congress to fully fund the Coast Guard to the level requested by the President.

#### Administration Position

DOD supports the NDPB position. This is essentially the position recently taken by the House and Senate on the FY 1989 Defense Authorization Bill. Strongly oppose Michel Bill (H.R. 4842).

DOT supports the recommendation of the NDPB to designate surveillance and detection in support of drug law enforcement efforts as a mission of the military. DOT also supports use by the Coast Guard of three Navy E-2C aircraft, if available for drug interdiction.

Status

Legislation passed Congress (FY 1989 Defense Authorization Act) but was vetoed because of provisions other than the drug provisions.

The Commandant of the Coast Guard testified on June 5, 1988, before the House Merchant Marine and Fisheries Committee, Subcommittee on Coast Guard and Navigation, in response to a question by Congressman Hochbrueckner, that more E-2C's would be helpful.

August 8, 1988

Lead Agency: DOT  
Other: TR

STUDY OF FLIGHT CORRIDORS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Requires Secretary of Transportation to conduct a study of the feasibility of flight corridors. Similar to H. R. 4842.

Bill: Michel (H.R. 4842 House Rep.)

Requires the Secretary of Transportation to conduct a study on the feasibility of establishing flight corridors across the southern U.S. border and to report the results to Congress within 180 days of enactment. This study will include review of the policy of interdicting those straying from these corridors. (Sec. 4031)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

### National Drug Policy Board

#### Administration Position

DOT has no objection to studying the issue. The FAA, however, has had discussions with the U.S. Customs, U.S. Coast Guard, and DOD concerning the establishment of flight corridors. These agencies have identified no requirement that would call for the establishment of corridors. The concensus has been that the negative economic and safety impacts, even without detailed study, would not justify the extreme action of limiting access to the southern borders and coastal regions to specific flight corridors.

Treasury notes this provision should not be supported. In light of recent actions by the FAA concerning the use of transponders, this study is not necessary.

#### Status



August 8, 1988

Lead Agency: DOT  
Others: TR, DOD

**EXPANSION OF COAST GUARD AUTHORITY**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

For the Coast Guard, authorizes additional funds for air and marine assets to apprehend drug traffickers, and additional funds for personnel.

Bill: Wright (H.R. House Dem.)

Includes provisions providing certain legal protections to Coast Guard officers with regard to enforcement duties (MM & Fish Sec. 2, 5 & 6) similar sections in H.R. 4842.

Includes provision amending existing law to require Coast Guard to engage in maritime surveillance or interdiction to enforce U.S. laws. (MM & Fish sec. 11(2)) It does not contain the amendments to 14 U.S.C. 89 (see H.R. 4842) re: specified duties of officers.

Bill: Michel (H.R. 4842 House Rep.)

Amends existing law to require Coast Guard to engage in maritime surveillance or interdiction to enforce the laws of the U.S. and specifies duties of Coast Guard personnel in carrying out this mission. (Sec. 4045)

Does not contain amendments to suits in Admiralty Act and Public Vessels Act (re: legal protections to Coast Guard officers) which are in the Wright bill (MM & Fish, Sec. 6)

Includes provisions providing certain legal protection to Coast Guard officers with regards to enforcement duties. (Sec. 4047 & 4048)

Authorizes an additional \$155 million for acquisition and construction of equipment, \$17 million for the maintenance of this equipment and amounts "necessary for personnel to operate" this equipment. (Sec. 4044-4049)

Bill: Dole (S. Senate Rep.)

Amends 10 U.S.C. 379 and 14 U.S.C. 637 to give Navy commanding officers and those acting under their orders, including Coast Guard LEDET's, the authority and protection currently in 14 U.S.C. 637 to shoot at vessels without being subject to personal liability when a Navy ship has a Coast Guard LEDET attached.

Requires the Secretary of Treasury, in consultation with the Secretary of Transportation, to submit draft legislation to Congress to restrict the ports of entry for vessels from drug producing countries, to require advance notification of arrival from these vessels, and to subject those vessels to quarantine and inspection. Also allows the Secretary to promulgate and charge fees for inspection services, as appropriate.

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

DOT supports provisions providing authority and protection of commanding officers on naval vessels to which Coast Guard personnel are assigned, indemnification of Coast Guard members and employees and amendments to the suits in Admiralty Act and Public Vessels Act with regard to enforcement duties. DOT objects to the provision amending existing law to require Coast Guard to engage in maritime surveillance and interdiction as unnecessary because this is the subject of a Memorandum of Understanding between the Coast Guard and Customs Service. DOT supports full funding at the President's requested levels for the Coast Guard. DOT strongly opposes amending 14 U.S.C. 89 to give the Coast Guard the

authority to use force to compel compliance from aircraft, also questions the level of appropriateness concerning requiring the Customs Service and the Coast Guard to submit draft legislation to restrict the ports of entry for vessels from drug producing countries and believes that, at this time, a study would be more appropriate.

With regards to the provision on Air Interdiction, Treasury notes the provision should not be supported. Both the Coast Guard and the Customs Service by agreement reached through the NDPB, request that this provision be withdrawn.

Treasury supports provisions relating to indemnification, liability protection, and suits in Admiralty.

#### Status

The Department of Transportation has communicated to Congress its support for the provisions supported above.

August 8, 1988

Lead Agency: DOT  
Other: TR, DOD, DOS

GREAT LAKES DRUG INTERDICTION  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Same language as Section 4050 of H.R. 4842 below. Directs negotiations with Canada on drug enforcement cooperation.

Bill: Michel (H.R. 4842 House Rep.)

With respect to the Great Lakes area, directs the Secretary of Transportation and Customs Commissioner to develop an agreement for increasing the effectiveness of drug interdiction; (Section 4050) and requires the Secretaries of Transportation, Navy, Air Force, and Customs Commissioner to increase use of long range surveillance aircraft to detect smugglers. (Sec. 4053)

Requires the Secretary of Transportation in consultation with other drug law enforcement agencies, to draft legislation to control the ports of entry for vessels arriving from drug producing countries. This legislation is to include notification of arrival and special inspection procedures.

Directs negotiations with Canada on drug enforcement cooperation (Sec. 4054).

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

The Administration strongly objects to any provision which legislatively allocates the scarce resources of the Coast Guard. In addition, the current threat in the Great Lakes does not justify the increased use of long-range surveillance aircraft at this time. The Administration does not object to negotiations with Canada on cooperative drug enforcement.

Status

Commandant of the U.S. Coast Guard testified before the Coast Guard and Navigation Subcommittee on June 15.

August 8, 1988

Lead Agency: TR  
Other: DOT

PORT OF ENTRY/CARGO INSPECTION  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Requires the Secretary of Treasury in consultation with other drug law enforcement agencies, to draft legislation to control the ports of entry for vessels arriving from drug producing countries. This legislation is to include notification of arrival and special inspection procedures. (Sec. 4051)

Bill: Dole (S. Senate Rep.)

Requires the Secretary of Treasury in consultation with other drug enforcement agencies, to draft legislation to control ports of entry for vessels and Aircraft. (Sec. 9002)

White House Conference for a Drug Free America

National Drug Policy Board

Expand and focus research and development efforts on drug detection technology to identify drugs in commercial cargo containers.

Administration Position

DOT supports the recommendation of the National Drug Policy Board designed to increase the Customs Service's ability to identify drugs in cargo containers. At this point, legislation for special restrictions on and inspections of vessels seems premature and a study of the issue is recommended.

Treasury notes that this provision should not be supported. It constitutes micromanagement by Congress. There are questions about the constitutionality of Congress requiring the President to submit legislation.

Status

The Department of Transportation has not commented to Congress on this proposal.

August 8, 1988

Lead Agency: DOT  
Other: TR, DOS

**MARITIME DRUG SMUGGLING**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Extends Maritime Drug Smuggling Act to U.S. Citizens aboard vessel of any nation  
(Extraterritorial jurisdiction for simple possession).

Amends Maritime Drug Enforcement Act to require operators of vessels which would otherwise  
be considered U.S. vessels but for a valid foreign registry, to raise that issue at the  
time of boarding.

Bill: Michel (H.R. 4842 House Rep.)

Bill: Dole (S. Senate Rep.)

Extends Maritime Drug Smuggling Act to U.S. Citizens aboard vessel of any nation (Sec.  
9003).

Amends Maritime Drug Enforcement Act to require operators of vessels which would otherwise  
be considered U.S. vessels but for a valid foreign registry, to raise that issue at the  
time of boarding (Sec. 9004).



#### White House Conference for a Drug Free America

#### National Drug Policy Board

Modify the maritime drug smuggling criminal penalties to provide explicit extraterritorial application of 21 U.S.C. 844 (simple possession), in order to allow for the inclusion of possession as a lesser included offense in drug trafficking cases and to penalize the failure to comply with lawful boarding orders to vessels and landing orders to aircraft.

#### Administration Position

DOT supports extension of the Maritime Drug Smuggling Act to United States citizens aboard vessels of other nations. This will permit U.S. prosecution of U.S. citizens apprehended for violation of drug laws by a foreign nation when that nation does not intend to prosecute the U.S. citizen. DOT also supports amending the Maritime Drug Enforcement Act to require operators of vessels which would otherwise be considered U.S. vessels but for a valid foreign registry, to raise that issue at the time of boarding, thus closing a loophole through which drug smugglers have avoided prosecution.

The Department of State does not oppose the position taken by the NDPB, provided there is a jurisdictional nexus to the United States, e.g., a U.S. citizen, a U.S. flag vessel, etc.

With regards to provisions concerning claims of registry and possession on the high seas, Treasury notes these provisions should be strongly supported. In addition, 46 U.S.C. 1903 should also be amended to include the offense of simple possession of controlled substances on the high seas.

#### Status

The Department of Transportation communicated its support for these provisions; which the Coast Guard drafted, to Congress.

August 8, 1988

Lead Agency: TR  
Others: DOT, DOJ

EXPANSION OF CUSTOMS AUTHORITY  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Requires aircraft pilots to report to Customs upon departure from the U.S. and establishes civil penalties for violations.

Increases penalties for failure to declare controlled substances.

Permits Customs to board vessels on the high seas and, with consent, in the contiguous zone, territorial seas and internal waters of foreign countries.

Makes various technical changes with respect to declarations of forfeiture.

Permits sharing of forfeited property with State and local law enforcement agencies if agencies "cooperate" with Customs in joint law enforcement operations (compared to "participated directly" in current law); also permits sharing property with foreign governments; permits retention of forfeited property for use by Customs.

Makes violations of 3 additional statutes (e.g., the Export Administration Act) RICO-predicate offenses; also establishes a new Customs civil penalty. (Sec. 188 b,c,d,e,f,g and Sec. 191).

Bill: Byrd (S. -- Senate Dem.)

For the Customs Service, authorizes additional funds for aircraft (primarily for apprehension), personnel, and a cargo container narcotics detection program.

Enhances Customs Subpoena authority (Sec. 2502(h)).

Increase penalties of failure to declare controlled substances. (Sec. 2502(d)).

Makes various technical changes with respect to declaration of forfeiture (2502(e) and 2024).

Amends 19 U.S.C. 1616 to permit sharing of forfeited property with State and local law enforcement agencies if they "cooperate" with Customs in joint law enforcement operations. Also permits retention of assets and sharing with foreign governments. (2502(f)).

Also amends 19 U.S.C. 1616 to allow for retention of assets for official use but no foreign sharing and no sharing with State and locals unless directs participation in seizure or forfeiture of the property (2022). This is a conflict with 2502(f).

Allow Court to assess costs of investigations and prosecution against convicted drug violators.

Bill: Wright (H.R. -- House Dem.)

Authorizes additional funds for cargo container scanning device research.

Increase penalties of failure to declare controlled substances (Sec. S.2205)

Permits sharing of forfeited property with State and local law enforcement agencies if they "cooperate" with Customs in joint law enforcement operations. Also permits retention of assets and sharing with foreign governments. (Sec. 2205).

Provides for transfer of aircraft to sheriff of Marion County, Indiana for drug enforcement.

Bill: Michel (H.R. 4842 -- House Rep.)

Adds civil penalties of \$100,000 to \$500,000 for import/export of controlled substances. (2112(b)).

Bill: Dole (S. -- Senate Rep.)

Airport Drug Interdiction Zone -- Increases the authority and power of the U.S. Customs Service and the Federal Aviation Administration to seize and search commercial aircraft for illegal drugs and narcotics. The Administrator of the FAA is empowered to designate Airport Drug Interdiction Zones in conjunction with the issuance of airport operating

certificates. This enables the Customs Services and the FAA to search and seize commercial aircraft in these zones without probable cause; the seizure to last no more than two business days. Commercial airlines would be encouraged to enter written agreements of participation with the FAA. Commercial carriers would be allowed to go unpenalized if they submitted their planes to this search.

Adds civil penalties of \$250,000 to \$100,000 for importing or exporting controlled substances (3402(b)).

#### White House Conference for a Drug Free America

#### National Drug Policy Board

#### Administration Position

Treasury supports provisions on Customs Supoena Authority, prosecution expenses, failure to declare controlled substances upon entry into the U.S., recognition of administrative forfeitures, additional RICO predicates, and transfer of aircraft ownership penalty.

With regards to the Sharing of Forfeited Assets provisions, Treasury notes the provisions in Section 188 (g) of the D'Amato bill and sections 2502(f) of the Byrd bill should not be supported. Section 2022 of the Byrd bill should not be supported. The clarification concerning retention of forfeited property is necessary because similar language was lost when section 1616 was repealed by the Anti-Drug Act of 1986 and the parallel provision section 1616a was left intact. In addition, the requirement in the present law, 19 U.S.C. 1616a, which allows asset sharing only when the state or local law enforcement agency has "directly participated" in a seizure or forfeiture with Customs (i.e., they must have been involved in the specific case) impedes transferring forfeited property when the local agency generally assists Customs, but for some reason, did not take part in a specific case. It is important to encourage state, local and foreign government participation in joint enforcement efforts with Customs. The proposal in the D'Amato bill and section 2024 of the Byrd bill would allow Customs to transfer forfeited property based on overall cooperation, rather than on a case by case basis. Foreign cooperation is not limited to specific joint operations, but also overall cooperation in Customs law enforcement. This authority should be helpful in encouraging Customs to Customs mutual assistance agreements between the United States and foreign governments.

With regards to the Civil penalties provisions, Treasury notes these provisions should be

supported. The higher the penalty amounts would have more impact on drug smugglers.

With regards to the Customs High Seas boarding, Treasury notes that this provision should not be supported. Both the Coast Guard and the Customs Service by agreement reached through the NDPB, request that this provision be withdrawn.

DOT strongly opposes any expansion of Customs' authority on the high seas as an unnecessary and inefficient use of scarce interdiction resources, and because of possible impact on Coast Guard authority to enforce U.S. laws on the high seas.

DOT objects to the airport drug interdiction zones proposal. It would impose an unnecessary burden on FAA since Customs already has the authority to search aircraft arriving from foreign countries. Further, FAA's authority should not be expanded to law enforcement search and seizure activity.

#### Status

DOT's position on Customs' authority on the high seas has been communicated to Congress.

August 8, 1988

Lead Agency: TR  
Other: DOJ

TREASURY ENFORCEMENT  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Provides Treasury/Customs with enhanced enforcement authority (e.g., by permitting Treasury employees to administer oaths, subpoena witnesses, and compel the attendance of witnesses); also permits Treasury to "invoke the aid of any court of the United States" to compel compliance with a subpoena. (Sec. 190).

Bill: Byrd (S. -- Senate Dem.)

Same provision as Section 190 of S. 2205.

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4892 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

The Administration opposes this provision.

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**Status**

August 8, 1988

Lead Agency: DOT  
Other: TR

U.S. VESSEL IDENTIFICATION  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Clarifies the definition of U.S. vessels and requires the Secretary of Transportation to submit legislation to "conform references" to these vessels and to collect and maintain information on them. (Sec. 4055-4056)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board



Administration Position

DOT opposes this provision which would rewrite much of the current law on vessel documentation in a technically flawed, vague and confusing way. These proposals would overload the existing system for documenting vessels, increasing the number of vessels from 200,000 to about 9,000,000, and causing problems for the Coast Guard and the maritime industry it serves.

Treasury notes this provision should be supported.

Status

The Commandant of the Coast Guard has testified on this issue before the Coast Guard and Navigation Subcommittee on June 15th.

August 8, 1988

Lead Agency: TR  
Others: DOT

AIRLINE ANTI-SMUGGLING  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Ensures greater vigilance in interdicting illegal drug smuggling on commercial aircraft by providing for formal and uniform procedures for the inspection of commercial aircraft by the common carrier for illegal narcotics smuggling into the United States. Creates a standard by which airlines can measure whether its precautions have satisfied the standard of care prescribed by statute.

White House Conference for a Drug Free America

### National Drug Policy Board

#### Administration Position

The Department of Transportation opposes the Dole proposals that would establish a standard for the degree of care that airlines must employ in preventing drug smuggling and a rebuttable presumption that an air carrier certified as complying with the standard has exercised the "highest degree of care and diligence." The Department has refused to establish such a standard for vessels, and the establishment of one for air carriers would be consistent with Zero Tolerance.

Treasury also notes that this provision should not be supported. It would impose a significant resource burden on the Customs Service, encourage drug trafficking and smuggling by removing the incentive for air carriers to prevent the illegal introduction of drugs on the aircraft and cargo at foreign locations, and abrogate the Carrier Initiative Agreements (concluded between Customs and thirty-six (36) international air carriers) which enumerate in detail security measures and procedures to prevent drug smuggling and ensure compliance with Customs law.

#### Status

Customs is providing informal technical assistance to several key Senators.

August 8, 1988

Lead Agency: DOS  
Others: DOJ, TR

PASSPORT RESTRICTIONS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Authorizes State to stamp passports of those convicted of drug offenses; requires revocation of passports of persons convicted of drug offenses; prohibits issuance of passport to a person convicted of a drug offense for 20 years after conviction (in the case of a felony) or 5 years after conviction (in the case of a misdemeanor). (Sec. 189)

Bill: Byrd (S. Senate Dem.)

Provides for revocation of passports for felony (only) drug violations and makes violators without passports ineligible to receive one for ten years.

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Bill: Dole (S. Senate Rep.)

Requires that notation be made on a passport if a person has been convicted of a drug offense or has incurred a forfeiture. In addition, revokes passports of convicted persons for 10 years in cases of felony convictions, and 5 years in misdemeanor convictions.

Requires the stamping of passports of drug convicted aliens at time of attempted entry into the United States. (Sec. 8020)

White House Conference for a Drug Free America

National Drug Policy Board

Direct the identification of convicted drug traffickers traveling with a U.S. passport by marking the passport to alert U.S. and foreign officials of previous violations, and revoke passports of individuals caught bringing illegal drugs into the U.S.

Administration Position

The NDPB supports stamping passports of convicted drug traffickers. It should be noted, however, that the Department of State is opposed to the stamping of passports due to the fact that there is an established procedure for revocation through the judicial process and current authorities and procedures should be upheld.

Treasury notes that the provisions in either the Dole or D'Amato bills should be supported. The Dole bill is preferred as it encompasses more offenses.

DOJ supports. (Requires coordination on technical matters.)

Status

August 8, 1988

Lead Agency: DOS  
Others: DOJ, TR, DOT

**U.S.-BAHAMAS DRUG TASK FORCE**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Authorizes funding for the U.S.-Bahamas Drug Task Force for Bahamian Government enforcement strike team and joint operations.

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

DOT does not object to additional assets for the Task Force provided the funds are properly allocated to the appropriate Federal agencies.

Treasury supports this provision.

State supports the Byrd bill authorizing funds for the task force and believes all such funds should be allocated by the Department of State.

OMB opposes any additional funding for drug related programs that is not consistent with the Bipartisan Budget Agreement and accompanied by appropriate offsets.

Status

This position has been communicated to the appropriate staff in Congress by the Coast Guard.

25,1988

Lead Agency: TR  
Other: DOT, DOJ

INNOCENT OWNER SEIZURES  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Provides that no conveyance may be forfeited under controlled substance Act except where government show violation done with knowledge or consent of owner. (MM & Fish Sec. 7, and Judiciary 206)

Bill: Michel (H.R. 4842 -- House Rep.)

Provides that no conveyance used as a common carrier on fishing vessel shall be forfeited under the controlled substances act unless the government shows that the owner or operator consented in the violation. (Sec. 4052) Unlike the Wright bill above, this bill does not provide procedures for preliminary hearing or for reimbursement.

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America



## National Drug Policy Board

### Administration Position

Treasury notes that these provisions should not be supported. They should be vigorously opposed. Shifting the burden of proof to the government would reverse two hundred years of forfeiture law. See Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S., 663, 683 (1973). Since the Act of July 31, 1789, 1 Stat. 39, conveyances used in violation of the Custom's laws have been subject to seizure and forfeiture in in rem proceedings. Moreover, "the innocence of the owner of property subject to forfeiture has almost uniformly been rejected as a defense". Id., citing the Palmyra, 12 Wheat .1 (1827). The rationale underlying this principle is that the conveyance is the offender and the owner's innocence is irrelevant. Additionally, forfeiture laws as applied to innocent parties serve an important public policy by "inducing them to exercise greater care in transferring possession of their property". Id., at 688.

It should be noted that the Supreme Court's analysis of forfeiture law and principles arose out of a case upholding the forfeiture of a leased vessel upon which only one marijuana cigarette was found. Id., at 693. The Supreme Court recognized not only that forfeiture is applicable in drug possession cases, but that any possible defense by an innocent owner to establish that the conveyance was taken without his consent or that he had no knowledge of the illegal activity and had done all that could reasonably be expected to prevent the proscribed use of his property.

By shifting the burden of proof to the government in these forfeiture cases, the Customs Service would be severely hampered in its law enforcement mission. Not only are alleged innocent owners in a better position to prove that they meet the Calero-Toledo defense, but owners in general are in a better position to control the use of their conveyances and monitor the action of those in possession of their conveyances. Shifting the burden of proof to the government will only foster laissez-faire attitudes and incidents of willful blindness by owners. Owners would no longer be encouraged to exercise greater vigilance and responsibility with regard to the illegal use of their conveyances.

As noted earlier, the innocent owner is currently afforded protection and due process under the Custom's laws, regulations and administrative procedures. For example, Customs regulations, 19 CFR 171.13, allow an innocent owner to file a petition for relief and obtain mitigation by establishing his lack of knowledge and identifying reasonable steps taken to prevent the proscribed use of his conveyance. Alternatively, an alleged innocent owner may file a claim and cost bond which suspends the administrative forfeiture proceedings and causes the matter to be referred to the U.S. Attorney for institution of judicial forfeiture proceedings, giving the owner the opportunity to be heard in a judicial forum.

In the Wright bill the section relating to notice and preliminary hearing requirements, cost bonds, and final judicial hearings would not guarantee an expedited review process. By eliminating the opportunity to proceed administratively under Custom's procedures, each case would be processed in an already overburdened judicial system. The requirement that a complaint be filed in court within 90 days of the preliminary hearing guarantees at a minimum a three year court case in the Southern District of Florida, for example. If the case is handled administratively, the average time in which a case is resolved is less than 1 year. Custom's regulations already provide that owners and interested parties receive seizure notices informing them of their rights such as petitioning for relief, filing a claim and cost bond to force the matter into court, or substituting the value of the conveyance to secure its immediate release (assuming an owner is not already in possession of the conveyance via a constructive seizure agreement). Adequate protection for innocent owners is provided for in Custom's regulations and procedures and in a more efficient and timely manner than contemplated by this section to the revised amendment.

DOJ opposes the provisions as drafted.

#### Status

Letters sent to House Leadership and House Merchant Marine and Fisheries Committee Chairmen.

Letter sent to House Ways and Means Chairman Rostenkowski.

U.S. Customs Service is providing technical assistance to the House Judiciary, Merchant Marine and Fisheries, and Ways and Means Committee.

August 8, 1988

Lead Agency: DOT  
Other: TR

AIR SMUGGLING  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Requires aircraft pilots to report to Customs upon departure from the U.S. and establishes civil penalties for violations (Sec. 2502)

Provides penalties for being a "critical crew member" on an aircraft or vessel engaged in smuggling (i.e. captain or pilot). (Sec. 2922)

Bill: Wright (H.R. -- House Dem.)

Provides for FAA modification of requirements for registration and recordation of aircraft, issuing of airman's certificates and processing forms for alternative fuel systems.

Provides criminal penalties for forgery of certificates, false marking of aircraft and other registration violations (includes seizures and forfeiture)

Makes it unlawfully to fly without lights while transporting controlled substances.

Provides for a study by the Secretary of Transportation of the use of transponders on aircraft entering the U.S.

Bill: Michel (H.R. 4842 -- House Rep.)

Contains provision prohibiting the reissuance of revoked airman certificates (Sec. 4071)

Includes provision clarifying possession of drugs on airplan with intent to distribute. (Sec. 2244)

Bill: Dole (S. -- Senate Rep.)

Includes provision clarifying possession of drugs on airplane with intent to distribute.

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

DOT supports some of the suggestions in the Wright bill, but objects to any mandate to require specific actions which may have little impact on drug smuggling and impose unnecessary burdens on general aviation. The Department of Transportation/Federal Aviation Administration is already working to identify what actions it can take to be of more assistance to law enforcement agencies. As such, the provisions in the Wright bill mandating specific rulemaking actions is unnecessary.

DOT supports the provision suggested by the NDPB to use inspectors to report suspected drug activity to law enforcement officials.

DOT notes that the requirement for a study on the use of transponders is unnecessary. The FAA is exploring the issuance of a Notice of Proposed Rulemaking that would require the use of tansponders on all aircraft entering U.S. airspace.

Treasury notes that the provisions relating to report of departure should be supported. In light of increased aerial drug smuggling activity, enhanced identification is necessary at the United States borders.

In addition, Treasury supports provisions relating to critical crew. Increasing penalties against critical crew members should serve as a deterrent to those who facilitate the

trafficking of drugs in and about the U.S. Under the threat of the stiff penalties, the economics of being a critical crew member should be such that those people will not want to risk being caught. Fewer people therefore, will be willing to facilitate the trafficking of drugs.

Treasury also supports the Dole bill provisions relating to possession on aircraft.

Treasury supports provisions which prohibit reissuances of airman certificates in persons who have been convicted of activities related to controlled substances. This is another increased penalty against those who facilitate the trafficking of drugs in and about the U.S. With the threat of losing an airman certificate for 5 years, with no chance of getting it back, many people will not want to risk being caught. Fewer people therefore, will be willing to facilitate the trafficking of drugs.

DOJ supports the clarification provision with technical corrections.

#### Status

The Department of Transportation testified on June 8, 1988 before the House Public Works and Transportation Committee on FAA involvement in drugs.

August 8, 1988

## DRUG BILL ANALYSIS SUMMARY

|                                             | Senate |      |           | House  |        |      | White House | Lead Dept;             |          |
|---------------------------------------------|--------|------|-----------|--------|--------|------|-------------|------------------------|----------|
|                                             | Byrd   | Dole | DeConcini | Wright | Michel | NDPB | Conference  | Others                 | Category |
| <b>C. <u>State and Local Assistance</u></b> |        |      |           |        |        |      |             |                        |          |
| State and Local Narcotics Control Assist    | X      |      | X         | X      | X      | X    |             | DOJ; OMB               | A        |
| Domestic Eradication.....                   |        |      |           | X      |        | X    |             | DOJ; INT, AG           | C        |
| Use of National Guard for Enforcement       |        | X    |           | X      | X      | X    |             | DOD; DOJ, OMB          | A        |
| <b>D. <u>Intelligence</u></b>               |        |      |           |        |        |      |             |                        |          |
| State Narcotics Report.....                 | X      |      | X         |        |        |      |             | DOS; DOJ, TR           | C        |
| Increased Intelligence Capabilities...      | X      | X    |           |        | X      |      | X           | DOJ; NSC, DCI          | C        |
| <b>E. <u>Other</u></b>                      |        |      |           |        |        |      |             |                        |          |
| Increased Research - Supply Side.....       | X      | X    | X         | X      |        |      | X           | DOD; TR, DOS, DOJ, OMB | C        |
| Personnel Benefits.....                     | X      | X    | X         | X      | X      |      |             | OPM; DOJ, OMB          | B        |
| Codifying the U.S. Marshals.....            |        | X    |           |        | X      |      |             | DOJ                    | C        |
| Narcotics Trafficking on Tribal Lands       |        |      |           | X      |        |      |             | INT; OMB, DOJ          | C        |
| Transfer Aircraft to Indiana.....           |        |      |           | X      |        |      |             | TR                     | C        |

August 8, 1988

Lead Agency: OMB  
Others: DOJ

STATE AND LOCAL NARCOTICS CONTROL ASSISTANCE  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Requires the Attorney General to ensure that forfeited property is shared with State and local law enforcement agencies that participated directly in a seizure or enforcement action.  
(Sec. 103)

Establishes new and expensive (\$1.5 billion, FY 89 - FY 91) formula and discretionary grant program for State and local drug control programs; establishes Bureau of Justice Assistance (BJA) by statute; requires BJA to complete an annual "National Strategic Drug Control Plan;" makes permanent the pilot State prison construction grant program -- never funded -- (and increases the Federal match to 80% from 20%); and authorizes additional funds (\$5 million) for BJA. (Sec. 110-145).

Bill: Byrd (S. Senate Dem.)

Reestablishes a commitment to state and local law enforcement, with particular emphasis on street level enforcement by substantially increasing drug enforcement grants to state and local governments, for particular programs aimed at drug control. Also outlines requirements for State grant applications, award periods, and program evaluations (Sec. 2121-2128). Reauthorizes financial assistance to State and local courts (Sec. 2181). Amends Internal Revenue Code of 1986 such that State and local agencies can be reimbursed for providing information to the IRS leading to enhanced recovery of Federal taxes (Sec. 2941).

Bill: Wright (H.R. House Dem.)

Requires 5% of appropriation be granted for improvements to criminal history information (H.R. 4916, Sec. 305). Requires certification from State that it is attempting to reduce demand by holding violators accountable (H.R. 4916, Sec. 305). Establishes systems for the distribution of State funds to local governments (H.R. 4916, Sec. 306-307).

Revises the matching requirement of 42 USC 379 to 50% (H.R. 4916, Sec. 308). Establishes State and local grant for a drug law enforcement pilot project (H.R. 4916, Sec. 310). Authorizes a \$30 million appropriation in 1989, 1990, 1991, and 1992 for both BJS and NIJ as well as \$600 million for BJA.

Bill: Michel (H.R. 4842 House Rep.)

Authorizes \$250 million for 1989 in grants to be used by states which introduce "elements of individual user accountability", take steps to reduce delays in the legal process, and "increase participation in multijurisdictional task forces." Prohibits use of these funds for defense of those accused. State matching requirement is 50%. (Sec. 2031-2033)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Increase federal assistance to State and Local law enforcement through expanded federal support for operational activities such as local Crack Task Forces, improved incentives for local participation in joint operations such as Operation Allcance and the Organized Crime Drug Enforcement Task Forces (OCDETF), support for local law enforcement efforts to achieve drug free public housing, and user accountability/Zero Tolerance related initiatives.

Administration Position

Treasury notes that IRS strongly opposes this provision as not directly related to the war on drugs, not needed, and creating a substantial administrative burden. Justice and OMB opposed a similar proposal in 1986.



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Requires further coordination with OMB. DOJ opposes DeConcini sec. 110-145. DOJ opposes Byrd provisions on BJA as detailed in an attachment. Michel provisions require review but DOJ has no objection if within the Bipartisan Budget Agreement.

Status

August 8, 1988

Lead Agency: DOJ  
Others: INT, AG

**DOMESTIC ERADICATION**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. 4916 House Dem.)

States that no action taken by the Attorney General regarding eradication in Hawaii shall be considered a major action requiring a detailed statement under the National Environmental Policy Act (Sec. 1205).

Bill: Michel (H.R. 4842 House Rep.)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Expand the domestic eradication campaign with additional support by the National Guard in conjunction with the Drug Enforcement Administration's strategy.

Administration Position

The Administration supports this provision.

Status

August 8, 1988

Lead Agency: DOD  
Others: DOJ, OMB

USE OF NATIONAL GUARD FOR ENFORCEMENT  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Provides \$60 million to be allocated to the States for use in drug interdiction and enforcement operations of the National Guard. Governors must provide cost-effective plans. Requires Secretary of Defense to prescribe and enforce training criteria for the National Guard to enhance the National Guard's capability to assist in drug control activities. Requires a Presidential report on effectiveness of using National Guard for drug interdiction along the borders and at ports of entry.

Bill: Michel (H.R. 4842 House Rep.)

Prevents state governors from withholding consent to use the National Guard in Federal (Title 10) status to assist in drug law enforcement efforts.

Bill: Dole (S. Senate Rep.)

Provides \$60 million to be allocated between National Guard, Army: National Guard Personnel and Allowances, Air National guard: Military Pay and Allowances, and Army Guard: Operations and Maintenance, as directed by Chief, National Guard Bureau.

White House Conference for a Drug Free America

National Drug Policy Board

Expand the domestic eradication campaign with additional support by the National Guard in conjunction with the Drug Enforcement Administration's strategy.

Administration Position

DOD supports the National Drug Policy Board. This support is consistent with the Dole bill, as well as the FY 1989 DOD Authorization Act, as it passed the Congress.

DOJ notes this position requires further development and coordination.

Status

Legislation vetoed (FY 1989 Defense Authorization Act) for reasons not associated with the drug provisions.

August 8, 1988

Lead Agency: DOS  
Others: DOJ, TR

STATE NARCOTICS REPORTS

\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Extends an existing requirement that State's annual narcotics control include comments prepared by DEA and Customs. (Sec. 242).

Bill: Byrd (S. -- Senate Dem.)

Requires that State applications for grants include a statewide strategy for drug control as well as assessments of State drug problems and efforts (Sec. 2122).

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

State has worked out effective procedures for reflecting the views of DEA, Customs and other agencies in the INCSR and finds further legislative directives unnecessary, e.g., the D'Amato bill. The Byrd bill is not appropriately cited here; its concern is with domestic situations.

DOJ notes this requires further coordination. Byrd provision is not objectionable to nor supported by DOJ.

Status

The Department of State has worked out effective procedures for representing the views of DEA, Customs and other agencies in the INCSR and feels that further legislative directives are unnecessary. The Byrd bill is not appropriately cited here as its concern is with domestic situations.

August 8, 1988

Lead Agency: DOJ  
Others: NSC

INCREASED INTELLIGENCE CAPABILITIES  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Provides \$4 million for EPIC (Sec. 4301).

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Increases the role of the U.S. Intelligence community in the international anti-drug effort and permits the use of electronic surveillance in international anti-trafficking investigations. (Sec. 3081)

Bill: Dole (S. Senate Rep.)

Provides \$3 million for El Paso Intelligence Center. EPIC coordinates all tactical drug-related intelligence.

Authorizes the INS to access the National Crime Information Center data base and other law enforcement computerized indexes.



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White House Conference for a Drug Free America

The Federal Government should designate a unified, national law enforcement drug intelligence system.

National Drug Policy Board

Administration Position

DOJ supports these provisions, (however, NSC views have not been provided).

Status

August 8, 1988

Lead Agency: DOD  
Other: TR, DOS, DOJ, OMB

INCREASED RESEARCH -- SUPPLY SIDE  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Establishes a "Research and Technology Group under the National Drug Policy Board to review research and related program of DOD and other agencies and to assess their applicability to law enforcement. Requires the Attorney General to establish an Advisory Board (with members from industry, academia, and Federal agencies) to advise the Research and Technology Group.

Establishes at DOD, Justice, and elsewhere "National Development Centers" to provide R&D support to law enforcement agencies; requires OMB to prepare a supplemental budget request for the Centers; and requires that no less than .002 of DOD's R&D budget be made available to support research at the Centers for law enforcement agencies. (Sec. 601-602).

Bill: Byrd (S. --Senate Dem.)

Authorizes additional funds for cargo container scanning devices, nitrate detection or other technologies.

Authorizes funds for development and implementation of machine readable travel document program. (Sec. 5103).

Establishes a program "to improve the accuracy, timeliness, or completeness of criminal justice information compiled and maintained by State and local criminal justice agencies" through the use of grants enhancing or creating particular programs. (Sec. 2166)

Bill: Wright (H.R. --House Dem.)

Authorizes additional funds for cargo container scanning devices research.

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Directs the National Institute of Justice to conduct research and evaluations to assist State and local agencies in the development and enhancement of effective drug control strategies and programs. This research must be directed toward the development of a comprehensive approach to drug control.

Directs NIJ to establish (1) a National Drug Control Clearinghouse to disseminate findings and (2) and Economic, Behavioral, and Operational Research Center to integrate tactical, behavioral, and technological drug control research into practical Federal, State and local applications. (Sec. 3651).

White House Conference for a Drug Free America

Research on the use of illicit drugs must be conducted in several areas: education, prevention, media/entertainment, law enforcement, sports, treatment, and transportation.

National Drug Policy Board

Administration Position

DOD supports the need for enhanced research activities as described in Byrd, Wright and Dole bills. Opposes D'Amato/DeConcini approach that diverts DOD resources from their intended national security purposes to drug interdiction research.

With regards to increased research related to cargo container examinations, Treasury notes these provisions should be supported. However, the amount of money authorized in the Byrd bill for research and development is too low. The authorization in the Ways and Means bill is high enough but, should also be available for continued research in the area of cargo container scanning devices. Treasury also supports provisions in the Byrd bill relating to machine readable visas.

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DOJ opposes the National Development Centers. DOJ does not object to provisions in the Wright bill. But advises modification of NIJ provisions (Dole).

Status

Under National Drug Policy Board Direction, DOD chairs a newly formed committee on Science and Technology which will be investigating this area. Legislation is premature at this time.

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August 8, 1988

Lead Agency: OPM  
Others: DOJ, OMB

PERSONNEL BENEFITS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Increases PSOB death benefit from \$50,000 to \$100,000; permits payments to be made to parents of deceased officer who are not "dependents;" establishes new Advisory Commission on Law Enforcement (located in the Legislative branch but with members from Executive branch) to make recommendations on law enforcement pay, recruitment, retention, and the like. (Sec. 171-117)

Bill: Byrd (S. Senate Dem.)

Increases PSOB death benefit from \$50,000 to \$10,000; parents who are not dependents are permitted to be named beneficiaries. Authorizes establishment of national programs for families of Public Safety Officers who have died in the line of duty (Sec. 2161-2162).

Establishes an independent, legislative branch National Advisory Commission on Law Enforcement in order to study the compensation of law enforcement officers in all Federal agencies (as well as "representative" State and local officers) with regard to inequities; the Commission shall submit a report to the President and then terminate within 60 days (Sec. 2302).

Bill: Wright (H.R. House Dem.)

Allows the AG to use DOJ appropriations to make payments for benefits and allowances for employees serving overseas (H.R. 4841 Sec. 1101). Expresses concern that U.S. should

expand investigative activities with respect to drug use by U.S. personnel and dependents stationed abroad (Sec. 306).

Bill: Michel (H.R. 4842 House Rep.)

Provides overseas DEA personnel with the same benefits as overseas State Department personnel. Requires the Attorney General to report on the implementation of this section 120 days after enactment. (Sec. 2041)

Bill: Dole (S. Senate Rep.)

Increases the death benefit for Federal public safety officers from \$50,000 to \$100,000, eliminates word "dependents" from paragraph 4 of 42 USC 3796(a). (Sec. 3704)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

The Administration supports increasing the Public Safety Officer Death benefit and supports improvements in overseas benefits for certain DOJ personnel as incorporated in the Administration's DOJ Reauthorization proposal. The Administration opposes the Advisory Commission on Law Enforcement as unnecessary in view of existing flexibilities under Public Law 100-202 to adjust pay for Federal employees, including law enforcement employees, when recruiting or retention problems arise, as well as other initiatives the Administration is supporting to increase pay flexibility. OPM is working with Federal law enforcement agencies to address any problems that arise.

DOJ supports Byrd and S. 2205 provisions. Opposes Byrd provision in Sec. 2302.

Status.

August 8, 1988

Lead Agency: DOJ  
Others:

**CODIFYING THE U.S. MARSHAL SERVICE**  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Establishes the U.S. Marshal Service as a separate bureau in the Department of Justice. Includes specific provisions on the appointment, residency requirements, duties and replacement of U.S. Marshals. Authorizes funds for administrative expenses, transportation of prisoners, aircraft and vessels, supervision of prisoners, firearms, rewards, and other specified expenses as required in the performance of their duties. Also specifies the specific duties and powers of U.S. Marshals.

Provides the Attorney General with the authority to exempt procurement functions from standard government procedures when necessary to protect the confidentiality of criminal investigations. Also specifies fees to be collected by the Marshals in the performance of their duties.

Also authorizes expenditures related to Support of U.S. prisoners and other technical amendments relating to forfeiture.

Bill: Dole (S. Senate Rep.)

Codifies orders and regulations of the Attorney General establishing the Marshals Service as a separate unit of the Department of Justice and providing for its organizational structure.

Includes specific provisions on the appointment, residency requirements, duties and replacement of U.S. Marshals. Authorizes funds for administrative expenses, transportation of prisoners, aircraft and vessels, supervision of prisoners, firearms, rewards, and other specified expenses as required in the performance of their duties. Also specifies the specific duties and powers of U.S. Marshals.

Provides the Attorney General with the authority to exempt procurement functions from standard government procedures when necessary to protect the confidentiality of criminal investigations. Also specifies fees to be collected by the Marshals in the performance of their duties.

Also authorizes expenditures related to the support of U.S. prisoners in non-Federal institutions. (Sections 2101-2105)

Enhances security and appropriate decorum in the Federal courts by: a) restating the Marshal traditional and premier responsibility of providing security for the courts and executing court process; b) authorizing the Marshals to provide personal protection to judges, U.S. Attorneys and other Federal officials; and c) eliminating the statutory provision which limits payment of court bailiffs to an unrealistically low level.

Provides explicit authority for the current functions of the Marshals Service, including authority to: a) carry firearms and make arrests; b) conduct fugitive investigations; c) protect Federal witnesses and their families; and d) provide for the transportation, maintenance and housing of Federal prisoners awaiting trial and sentencing, including entering agreements with States and localities to obtain necessary jail space.



Creates a separate U.S. Marshal office for the Superior Court of the District of Columbia to ensure that both the local D.C. court system and the Federal district and circuit courts in D.C. receive the levels of attention they require.

Permits the Marshals to recover the actual costs of serving non-federal court orders or processes in private litigation (currently borne by the taxpayers).

Furnishes the Marshals Service with explicit contracting authority to provide for security guards and service of process in non-criminal proceedings.

protects the security and confidentiality of ongoing criminal investigations by exempting from standard Federal acquisition procedures the procurement of contract services necessary to assist Federal law enforcement in seizing and managing property related to criminal enterprises.

#### White House Conference for a Drug Free America

#### National Drug Policy Board

#### Administration Position

The Administration supports Michel/Dole provisions with modifications.

August 8, 1988

Lead Agency: INT  
Others: OMB, DOJ

**NARCOTICS TRAFFICKING ON TRIBAL LANDS**  
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Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Amends Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986. Directs the Secretary of the Interior to provide \$500,000 for each of fiscal years 1990, 1991, and 1992 to the Tohono O'odham Tribe of Arizona and \$450,00 for each of fiscal years 1989 and 1990 the St. Regis Band of Mohawk Indians of New York for control of drug trafficking. Authorized \$1.5 million for law enforcement and judicial training.

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

DOJ has no objection.

Status

August 8, 1988

Lead Agency: TR  
Others:

TRANSFER OF AIRCRAFT TO MARION COUNTY, IN  
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Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Bill: Wright (H.R. -- House Dem.)

Requires the Secretary of the Treasury to transfer to the sheriff of Marion County, Indiana a light twin or single engine aircraft with a capacity of four or more passengers that was forfeited to the U.S. and would otherwise be sold at a public auction.

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

Treasury does not support this provision, but notes that this can be a provision of which they can acquiesce.

Status

August 8, 1988

## DRUG BILL ANALYSIS SUMMARY

|                                                   | Senate      |             |                  | House         |               |             | White House       | Lead Dept;        |                 |
|---------------------------------------------------|-------------|-------------|------------------|---------------|---------------|-------------|-------------------|-------------------|-----------------|
|                                                   | <u>Byrd</u> | <u>Dole</u> | <u>DeConcini</u> | <u>Wright</u> | <u>Michel</u> | <u>NDPB</u> | <u>Conference</u> | <u>Others</u>     | <u>Category</u> |
| VI. <u>INTERNATIONAL -- DOS</u>                   |             |             |                  |               |               |             |                   |                   |                 |
| International Cooperation Efforts....             | X           | X           | X                | X             | X             | X           | X                 | DOS; DOJ, TR      | B               |
| Limitation on Foreign Aid.....                    | X           |             | X                | X             |               |             |                   | DOS; DOJ          | C               |
| Use of International Strike Forces...             | X           |             | X                | X             | X             |             | X                 | DOS; DOJ, DOD     | B               |
| Transfer of Forfeited Property.....               | X           |             | X                | X             |               |             |                   | DOS; TR           | B               |
| Ammunition, Training & Other Assistance           | X           |             |                  | X             | X             | X           |                   | DOS; DOJ          | B               |
| Drugs as a National Security Objective            |             |             | X                | X             | X             |             | X                 | DOS; NSC          | B               |
| Foreign Interdiction & Eradication Efforts        |             | X           | X                | X             | X             | X           | X                 | DOS; DOJ, OMB     | A               |
| Extradition and Mutal Leg. Assist. Treaties       |             |             | X                | X             | X             |             | X                 | DOS; DOJ, TR      | C               |
| Export - Import Bank Assistance.....              |             |             |                  | X             | X             |             |                   | DOS; TR, DOD      | C               |
| INTERPOL (International Crime Symposium)          |             |             |                  |               | X             |             |                   | DOJ; OMB          | C               |
| International Currency Transaction Reporting..... | X           |             |                  |               |               |             |                   | TR; DOS, DOJ      | B               |
| Rewards.....                                      | X           |             |                  | X             |               |             |                   | DOS; OMB          | B               |
| Certification/Reallocation of AID.....            | X           |             |                  | X             |               |             |                   | DOS; DOJ, TR, DOT | B               |

Note: Blanks = no provision X = provision

August 8, 1988

Lead Agency: DOS  
Others: DOJ, TR

**INTERNATIONAL COOPERATION EFFORTS**  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Revises the criteria to be used by the President in certifying that foreign countries are cooperating adequately in the drug war (Sec. 220). Imposes limitations on aid to Bolivia and Mexico (Sec. 235-236). Requires report on any assistance that was provided during the preceeding fiscal year (Sec. 244).

Bill: Byrd (S. Senate Dem.)

Appropriates \$600,000 for the OAS Inter-American Drug Abuse Commission Legal Development Project (Sec. 5108).

Bill: Wright (H.R. House Dem.)

Designates the Department of State to coordinate all assistance provided by the U.S. government and to report annually to Congress (Sec. 301). Requires U.S. review of licit opium gum procurement policies (Sec. 227).

Requires U.S. government to press efforts with Afghanistan to reduce production and trafficking (Sec. 228). Requires quarterly reports of involvement of Laotian government in drug trafficking (Sec. 229).

Bill: Michel (H.R. 4842 House Rep.)

Establishes a joint Mexico U.S. Commission to study narcotics related issues. The Speaker of the House and the Majority leader of the Senate are each authorized to appoint at least 5 members to participate in this Commission in addition to executive branch members. Funding for this Commission will be derived from the Department of State "International Conferences and Contingencies" account in the amount of \$25,000 each for the House and Senate. U.S. commission members are directed to make arrangements with their appropriate Mexican counterparts with respect to the Commissions initial meeting. (Sec. 3091)

Directs the Secretary of State to establish an agreement with Canada to increase the sharing of information related to drug interdiction. (Sec. 4054)

Encourages the President to "convene a meeting of the heads" of Western Hemisphere countries that either have drug problems or contribute to the spread of illicit drugs. (Sec. 3031)

Bill: Dole (S. Senate Rep.)

Adds additional actions which the President shall consider in determining whether countries are cooperating fully with the United States: a) has adopted laws to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws; b) has expeditiously processed U.S. extradition requests; c) has not protected or given haven to any known drug traffickers and has expeditiously processed U.S. extradition requests relating to narcotics trafficking made by other countries; and d) has investigated the murders of U.S. personnel working in drug enforcement in that country who have been killed since 1985 and brought to trial and effectively prosecuted those responsible for such murders. Additionally, the criteria for entering into a mutual legal assistance agreement is changed from "willingness of such government to enter into" such an agreement to "has entered into." (Sec. 6001-6002)

Expresses the Sense of the Senate that the President should call for international negotiations for the purpose of establishing an international drug force to pursue and apprehend major international drug traffickers. (Sec. 6003)



#### White House Conference for a Drug Free America

The U.S. Department of Treasury should convene a meeting, or series of meetings, on international drug money laundering to develop specific suggestions for improving international cooperation in the investigation and confiscation of illicit-drug-related assets and profits.

The United States should intensify its efforts to exchange expertise and information with other countries on effective prevention and treatment programs to combat illegal drug use.

#### National Drug Policy Board

Increase support and contribution to multilateral organizations engaged in anti drug campaigns to encourage other nations to join the international effort and to provide a method of instituting anti drug programs in countries not yet willing to cooperate with the U.S.

Expand our ability to share forfeited property with cooperating foreign nations pursuant to international agreement.

Expand the international public awareness campaign by enhancing the flow and distribution of information concerning the threat of drug abuse and the efforts of the U.S. to stem the flow and demand for drugs.

#### Administration Position

The various bills have much broader impacts than noted in the summary, and State has at various times commented on numerous of these provisions. The format chosen here does not allow for replication of these detailed statements which have been furnished previously to OMB and NDPB. State cannot support any of these bills in toto.

To summarize, State opposes any sanctions beyond those implicit in Sec. 481(h); the certification process, and thus opposes individual sanctions against Bolivia, Mexico and others. State agreed to the various provisions of the House Foreign Affairs bill (H.R. 4842) which seek to align Titles II and IX of the 1986 Act. State has agreed to conduct the illicit opium study, and agreed to report on assistance provided during the year by all agencies, with specific endorsement of the Wright provision designating State as the coordinator of all U.S. assistance. State opposed the Afghan amendment, and the

requirement for exceptional reporting on Laos. State prefers the Wright provision for the joint commission with Mexico (rather than the Michel provision). The decision on convening a drug summit should be made by the White House. A sense of the Senate amendment concerning the agreement with Canada is acceptable. State opposes the Dole provision that in effect requires all countries to enter into MLATs as a condition of certification. The U.S. government has an active MLAT negotiation program but does not have the personnel to negotiate all the agreements that would be required by such a provision in a timely fashion. Moreover, the record is that excellent cooperation on money laundering has been obtained from some governments with which we do not have MLATs in force. Noting that Latin American governments have expressed opposition to various bills calling for international strike forces, State is more amenable to bills which require only that the issue be reviewed.

Status

August 8, 1988

Lead Agency: DOS  
Others: DOJ

**LIMITATIONS ON AID**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Imposes limitations on aid to Bolivia and Mexico. (Sec. 235-236). Also requires report on any assistance to a foreign country that was divided during the preceeding fiscal year (Sec. 244).

Bill: Byrd (S. -- Senate Dem.)

Permits aid to Bolivia only if its government enacts stricter coca production and distribution statutes (Sec. 5204). Requires certification that aircraft provided to foreign governments are used only for narcotics control (Sec 5205).

Bill: Wright (H.R. -- House Dem.)

Allows security aid to Bolivia only if its government enacts legislation outlawing illicit coca production (Sec. 222). Prohibits AID funding to Peru's Upper Huallaga Valley without progress in meeting coca eradication goals (Sec. 223). Limits aid to Mexico because of slow progress in the Cauacrena investigation and lack of success in drug control efforts (Sec. 224). Requires that Pakistan anti-narcotics actions be given strong consideration in making certification for security aid (Sec. 226). Prohibits use of international narcotics control assistance funds to purchase real property (Sec. 265). Prohibits assistance provided to or through any person the President believes a drug trafficker (Sec. 263).

Bill: Michel (H.R. 4842 -- House Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

DOJ defers to State on developing this position, which requires additional coordination.

State opposes the Bolivia, Peru, Mexico and Pakistan sanctions in all of these bills. There is sufficient authority in Sec. 481(h) to impose economic and other sanctions on any country which fails to cooperate. There is no logic in singling out these few countries, to the exclusion of some others where cooperation may not be as forthcoming, or wherein the situations are at least as daunting and complex. We doubt that Congress is prepared to say these are the worst countries in terms of cooperation but that is the effect of this singling out for criticism and sanction.

Status

August 8, 1988

Lead Agency: DOS  
Others: DOJ, DOD

USE OF INTERNATIONAL STRIKE FORCES  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Mandates a multinational strike force, with responsibility for establishment resting with new "Ambassador at Large and Coordinator for Western Hemisphere Antidrug Efforts" in State and with joint chiefs of staff in DOD. Strike force would be established by "treaty or executive agreement." For planning purposes, strike force would be equipped with United States material. Requires the President to submit a supplemental within 120 days for funding the strike force.

Bill: Byrd (S. Senate Dem.)

Directs establishment of a multi-national strike force to conduct operations against international drug smuggling organizations throughout the Western Hemisphere (Sec. 5401).

Bill: Wright (H.R. House Dem.)

Authorizes \$10 million for the U.S. share of expenses of a Latin American regional anti-narcotics force. Encourages OAS to establish similar forces and strategies worldwide (Sec. 101).

Bill: Michel (H.R. 4842 House Rep.)

Directs the President to develop a plan establishing a multinational strike force to "combat illicit narcotics production and trafficking in the Americas and Asia". This plan

is to be developed by the National Drug Policy Board in consultation with the Attorney General, and the Secretaries of State and Defense. In addition the President is encouraged to negotiate with other nations to implement this plan.

The President is also directed to submit to Congress a report on the implementation of this plan within 180 days. (Sec. 3001)

Bill: Dole (S. Senate Rep.)

#### White House Conference for a Drug Free America

Strong consideration should be given to establishing an international antidrug fleet of planes, helicopters, other vehicles, and necessary equipment to help with eradication, intelligence, and enforcement efforts in source countries.

#### National Drug Policy Board

#### Administration Position

State notes the strongly expressed opposition of several heads of government in Latin America to such strike forces. At best, legislation should not go beyond a requirement for reassessing, with such governments, the feasibility of forming some type of multinational or more probably regional force. Any such legislation should encourage these governments to conduct bilateral and multilateral cross border operations. We oppose all of these bills in their current form.

DOJ supports the Michel provisions with modifications.

#### Status

August 8, 1988

Lead Agency: DOS  
Other: TR

TRANSFER OF FORFEITED PROPERTY  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Requires the President to report annually on transfers of forfeited property to foreign governments. (Sec. 240).

Bill: Byrd (S. -- Senate Dem.)

Requires that forfeited property transferred to foreign governments be subject to regular reprogramming procedures (Sec. 5302).

Includes Reporting Requirement when forfeited property is transferred to foreign governments (5302).

Permits Secretary of the Treasury to share forfeited property with foreign governments (2502(f)).

Bill: Wright (H.R. -- House Dem.)

Amends the Tariff Act of 1930 to provide for the transfer of forfeited property to a foreign government that cooperate with Customs in joint law enforcement operations.

Requires prior notification to Congress of the transfer of forfeited property to foreign governments (Sec. 261).

Includes provision permitting Secretary of the Treasury to share forfeited property with foreign governments.

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

DOT supports efforts to expand the uses which forfeited property or its proceeds may be put to enhance drug interdiction efforts including access by the Coast Guard to the Fund for seizure-related and interdiction expenses.

DOJ supports international sharing provisions developed by NDPB consultation. Objects to aspects of Byrd and Wright provisions.

State is agreed to providing annual reports on property transfers but opposes the reprogramming provisions of the Byrd and Wright bills, which is tantamount to a legislative veto and would greatly encumber the process. any statutory provision permitting transfer of forfeited property to a foreign government should require that transfer occur pursuant to a treaty or international agreement with the foreign government, the Secretary of State's concurrence in the specific transfer, and prohibiting transfer to countries which have been denied certification.

Status



August 8, 1988

Lead Agency: DOS  
Others: DOJ

**AMMUNITIONS, TRAINING AND OTHER INTERNATIONAL ASSISTANCE**  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Directs INM to provide more assistance to countries which are drug transit countries but do not met the definition of major transit countries and which are cooperating with the United States (Sec. 5104). Earmarks \$2 million for training, maintenance and operations of pilots and aircraft (Sec. 5107).

Bill: Wright (H.R. House Dem.)

States that INM should encourage and contribute to a regional anti-narcotics intelligence center in the Caribbean (Sec. 104). Earmarks \$2 million of International Military Education and Training (IMET) funds for training, operation and maintenance of narcotics control equipment in Latin America and the Caribbean (Sec. 204). Earmarks \$1 million to increase awareness of the effects of drugs on source and trans-shipment countries (Sec. 207).

Earmarks \$1 million in aid for assistance to cooperative drug transit countries not deemed major trans-shipment points (Sec. 221). Requires government to treat procurement of international narcotics control property and services as expeditious as possible (Sec. 264).

Authorizes assistance to friendly governments to procure, for use in narcotics control, eradication, and interdiction efforts, weapons or ammunition for foreign law enforcement agencies. This assistance is subject to strict standards outlined in the section to avoid

the use of this assistance in counter-insurgency programs (Sec. 205). Exempts Columbia from restrictions on the number of U.S. Armed Forces assigned to a foreign country to manage security assistance programs (Sec. 225).

Bill: Michel (H.R. 4842 House Rep.)

Amends the Foreign Assistance act to expand the authority of the Secretary of State to provide weapons, ammunition and police officer training for countries if the the President determines this assistance is needed to combat illicit drug production. (Sec. 3021-3022)

Bill: Dole (S. Senate Rep.)

#### White House Conference for a Drug Free America

#### National Drug Policy Board

Provide additional amounts and types of small arms, ammunition, and other military assistance to cooperating anti narcotics forces in cooperating foreign countries by seeking an amendment to the restrictions contained under Section 482B of the Foreign Assistance Act.

#### Administration Position

State opposes any earmarks of funds, and is particularly concerned that Congress not earmark funds beyond the current level of \$1 million for non-major transit countries. It is illogical, at a time when INM is in a shortfall position for funds to conduct air operations in major source countries, for Congress to mandate more money for the less-important countries. State does not believe that a regional anti-narcotics intelligence center is needed in the Caribbean and opposes this earmark. State has consistently opposed IMET (International Military Education and Training) and MAP earmarks. State does believe the drug bill should contain new authorities to purchase firearms and ammunition for source country governments, e.g., Bolivia where UMOPAR forces are simply outgunned. But, State is reluctant to have such provisions made from INM's budget (the 150 function), and prefers that such provisions be made from MAP funds as may become available.

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INM believes narcotics-related procurements should be treated in an expeditious fashion.  
We support the Columbia exemption for MilGroups.

DOJ supports H.R. 4842 with modifications.

Status

August 8, 1988

Lead Agency: DOS  
Others: NSC

DRUGS AS A NATIONAL SECURITY OBJECTIVE  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

States that suppression of international narcotics trafficking is one of the most important foreign policy objectives of the United States. (Sec. 241)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. 4841 House Dem.)

States that suppression of international narcotics trafficking is among most important foreign policy objectives of the United States (Sec. 262).

Bill: Michel (H.R. 4842 House Rep.)

Encourages the President to "convene a meeting of the heads" of countries that either have drug problems or contribute to the spread of illicit drugs.

Elevates the suppression of international drug trafficking to the status of a major national security objective of the U.S. and states that it is the most important objective in the Western hemisphere. (Sec. 3041)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

International illicit-drug-related issues must be given a much higher priority in the formulation of United States foreign policy.

National Drug Policy Board

Administration Position

The principal feature of this amendment is effectively in place, thanks to the President's national security directive, and no further legislation is needed in this regard. Decisions on summit meetings should be made at the White House.

Status

. August 8, 1988

Lead Agency: DOS  
Others: DOJ, OMB

FOREIGN DRUG INTERDICTION AND ERADICATION  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Establishes a "Special Operations Eradication Squadron" in State for deployment in foreign countries that request eradication assistance.

Establishes a 3-year grant program (\$200 million per year), administered by AID/DEA, for countries that meet verified eradication goals. (Sec. 211)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. 4841 House Dem.)

Earmarks \$500,000 to finance testing of coca herbicides (Sec. 202) and \$900,000 to procure weapons to defend aircraft used in interdiction or eradication efforts (Sec. 203).

Bill: Michel (H.R. 4842 House Rep.)

Authorizes appropriations to be used for military education and training programs to assist foreign countries with interdiction and eradication efforts. (Sec. 3051-3052)

Bill: Dole (S. Senate Rep.)

Provides for the procurement of weapons to defend aircraft involved in narcotics control efforts. \$1 million for FY 88 and FY 89 to arm, for defensive purposes, aircraft used in

narcotics control eradication or interdiction efforts. The funds are to be used on existing aircraft, and not to be used for the purchase of new aircraft. The Foreign Affairs Committee of the House and the Foreign Relations Committee of the Senate shall be notified at least fifteen days in advance of the use of these funds. (Sec. 6004)

White House Conference for a Drug Free America

United States drug eradication programs overseas must be refocused and strengthened.

The activities of United States law enforcement officials engaged in narcotics enforcement overseas should be strengthened.

National Drug Policy Board

Expand economic development assistance by targeting funds to support cooperating drug producing nations' efforts to stop the growth and production of illicit drug crops.

Increase the resources for eradication programs; provide additional aircraft, training and research for new, safe methods to eradicate illicit drug crops.

Administration Position

State notes that there is absolutely no need (D'Amato) for a special operations eradication squadron in INM: it already exists, thanks to PL 99-570. State strongly opposes this bill's provisions relative to DEA involvement in certifying eradication and dispensing of aid. There is no objection to the Wright provision regarding herbicides testing. State opposes IMET (International Military and Education Training) earmarks (Michel). Funds are needed (Dole) for defensive arming of aircraft, preferably not INM funds: but, from whatever source, INM's regional airwing cannot be excluded from consideration, which Dole now excludes.

Status

August 8, 1988

Lead Agency: DOS  
Others: DOJ, TR

EXTRADITION AND MUTUAL LEGAL ASSISTANCE TREATIES  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Requires State and Justice to develop a model extradition treaty with respect to narcotics-related offenses. (Sec. 239)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. 4841 House Dem.)

States that a major producing or transit country cannot be determined fully cooperative unless a bi- or multi-lateral narcotics agreement with the U.S. is in place (Sec. 245).

Emphasizes need for updated extradition and MLATS and model anti-drug laws (Sec. 305).

Reactivates certification process for bank financing for major producing and transiting countries (Sec. 401).

Bill: Michel (H.R. 4842 House Rep.)

"Directs the Secretary of State to place greater emphasis on updating extradition treaties, and on negotiating mutual assistance treaties, with major illicit drug producing and major drug transit countries." (Sec. 3061)

Bill: Dole (S. Senate Rep.)



White House Conference for a Drug Free America

Congress should review the legislation creating the narcotics certification process.

National Drug Policy Board

Administration Position

State notes that those portions of these bills relating to these treaties are not needed. State and Justice have active programs to negotiate and/or update existing MLATs and extradition treaties, a program which takes into account our current priorities for source and transit countries. U.S. negotiators do begin negotiations using internal USG models developed by the departments, and no purpose is served by statutorily requiring development of more such models.

State negotiated the language in Wright concerning agreements reached under the Chiles amendment (Sec. 245).

Status

August 8, 1988

Lead Agency: DOS  
Others: TR, DOD

EXPORT IMPORT BANK ASSISTANCE  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. 4841 House Dem.)

Waives prohibitions contained in the Arms Export Control Act and Export-Import Bank Act on financing.

Bill: Michel (H.R. 4842 House Rep.)

Allows the Export Import bank to extend credit and guarantee loans for defense services or articles, "if the President certifies to Congress that the country needs" this assistance to combat illicit drug production or trafficking. (Sec. 3071)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

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Administration Position

This may be an unresolved policy issue. State supported the House Foreign Affairs Committee amendment (Wright), but has learned informally that EXIM Bank is not opposed to this amendment. Columbia is the intended beneficiary.

Status

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August 8, 1988

Lead Agency: DOJ  
Others: OMB

INTERPOL (INTERNATIONAL CRIME SYMPOSIUM)  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Bill: Michel (H.R. 4842 House Rep.)

Authorizes the Attorney General to incur expenses, perform specific functions and to accept gifts related to the hosting of Interpol. Requires the Attorney General to report information to Congress on gifts received for this purpose. (Sec. 2089)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

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Administration Position

DOJ supports section 2089.

Status

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August 8, 1988

Lead Agency: DOS  
Others: TR, DOJ

INTERNATIONAL CURRENCY TRANSACTIONS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Establishes an International agency to control information relating to international currency transactions (Sec. 5502). Establishes record keeping requirements for transactions of U.S. currency through foreign banks (Sec. 5503).

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

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Administration Position

DOJ opposes the Byrd provision.

Treasury notes that this attempt at unilateral extraterritorial application of currency reporting would be unenforceable and counterproductive to international cooperation in fighting drug trafficking.

Status

August 8, 1988

Lead Agency: DOS  
Others: OMB

REWARDS  
\*\*\*\*\*

Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Authorizes \$6 million for rewards for information relating to international terrorism (Sec. 5105).

Bill: Wright (H.R. 4841 -- House Dem.)

Authorizes \$5 million for rewards for information relating to international narcoterrorist acts (Sec. 302).

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America



National Drug Policy Board

Administration Position

DOJ notes that section 199 provides for rewards for recapture of escapes and absconders. Should also permit rewards for escapees from civil commitment 28 U.S.C. 1826(c). This includes "recalcitrant witnesses" who may be relevant to drug prosecutions.

Status

August 8, 1988

Lead Agency: DOS  
Others: DOJ, TR, DOT

**CERTIFICATION/REALLOCATION OF AID**  
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Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Bill: Byrd (S. -- Senate Dem.)

Allows the President to reallocate any security assistance funds denied to a country to another cooperative narcotics producing or transit country (Sec. 5106). Revises certification process inclusions (Sec. 5201) and criteria (Sec. 5203). Includes corruption by government officials in certification considerations (Sec. 5202). Requires Customs, DEA, and Coast Guard to prepare separate sections with INCSR (Sec. 5303). Clarifies reporting for terminated aid (Sec. 5304). Requires numerical expression of production reduction targets (Sec. 5305). Requires preliminary notification to Congress of countries which may be identified as major production or transit areas (Sec. 5307).

Bill: Wright (H.R. 4841 -- House Dem.)

Allows the President to reallocate security assistance funds denied to a country to another cooperative narcotics producing or transit country (Sec. 206). Requires that standards of drug production reduction must be expressed numerically (Sec. 241). Requires that the INCSR include a section on aid denied (Sec. 242). Requires that the certification process include law enforcement efforts to eliminate government corruption (Sec. 243). Requires notification to Congress of countries likely to be designated major transit points (Sec. 244). Changes reporting date for INCSR on corrupt foreign officials (Sec. 249). Waives certain restrictions on U.S. assistance for drug transit countries which are responding exceptionally well to U.S. standards for eliminating illicit production (Sec. 246). Clarifies existing provisions for terminating assistance (Sec. 247). Clarifies definition of U.S. assistance for use in the country certification process (Sec. 248).

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Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

DOJ notes this may require further coordination.

Status

August 8, 1988

DRUG BILL ANALYSIS SUMMARY

|                                                                 | <u>Senate</u> |             |                  | <u>House</u>  |               |             | <u>White House</u> | <u>Lead Dept;</u>                 |                 |
|-----------------------------------------------------------------|---------------|-------------|------------------|---------------|---------------|-------------|--------------------|-----------------------------------|-----------------|
|                                                                 | <u>Byrd</u>   | <u>Dole</u> | <u>DeConcini</u> | <u>Wright</u> | <u>Michel</u> | <u>NDPB</u> | <u>Conference</u>  | <u>Others</u>                     | <u>Category</u> |
| <b>VII. <u>FUNDING/ASSET FORFEITURE FUNDS</u> -- OMB/TR/DOJ</b> |               |             |                  |               |               |             |                    |                                   |                 |
| Funding Issues.....                                             | X             | X           | X                |               |               |             |                    | <u>OMB;TR</u>                     | <b>A</b>        |
| Customs & DOJ Forfeiture Funds.....                             | X             | X           | X                | X             | X             |             | X                  | <u>OMB; DOJ, TR</u><br><u>DOT</u> | <b>B</b>        |
| Annual Report on Drug Expenditures                              |               |             |                  | X             | X             |             |                    | <u>OMB</u>                        | <b>C</b>        |

Note: Blanks = no provision X = provision

August 8, 1988

Lead Agency: OMB  
Others:

FUNDING ISSUES  
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Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Expresses sense of the Congress that all programs and initiatives in the bill are critical, and that the President's FY 1989 Budget "does not provide sufficient funding to launch a full scale assault on the drug abuse problem." Also provides that the terms of the Bipartisan Budget Agreement should be amended, if necessary, to accommodate the level of new budget authority contained in the bill. States that it is Congress' "intent," among other things, that the President direct OMB to include "sufficient" funding in the FY 1990 and FY 1991 budgets to "fully annualize" the entire cost of the programs and initiatives contained in the bill. (Sec. 901).

Attempts to offset costs of enactment of the bill by generating additional collections from IRS and BATF activities.

Establishes a de facto Chief Financial Officer for the Federal Government (a new Undersecretary of the Treasury for Debt Collection and Credit Management), who would be the principal advisor to the President on credit management and debt collection policy; removes all authority of OMB in these areas; requires that the total amount of delinquent debt owed the U.S. be reduced by the amount targeted for collection in the President's 1989 budget, plus \$2 billion; and permits agencies to retain 15% of the amount by which their debt collections exceed the targeted amounts.

Establishes the "Antidrug Abuse Trust Fund;" appropriates to the Fund amounts equivalent to amounts received from collections resulting from enactment of title X of the bill that are over and above assumptions contained in 1987 OBRA and the 1988 CR; and provides that amounts in the Trust Fund shall be available to carry out the purposes of the bill, as provided in appropriations Acts. (Sec. 1001-1006).

Bill: Byrd (S. -- Senate Dem.)

Proposes to increase drug-related programs by roughly \$3 billion per year.

Bill: Wright (H.R. -- House Dem.)

Bill: Michel (H.R. 4842 -- House Rep.)

Bill: Dole (S. -- Senate Rep.)

Requires the Administration's budget submitted to the Congress include a summary of Federal expenditures for drug enforcement, by agency, in each budget submission for the immediately preceding and upcoming fiscal years. (Section 14001).

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

DOT does not oppose the submission of a separate drug budget but strongly urges full funding of each agency's budget to ensure adequate funding for anti-drug initiatives.

OMB supports the funding levels provided in the 1989 President's Budget and opposes additional funding that would violate the Bipartisan Budget Agreement without appropriate offsets.

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**Status**

**The Department of Transportation has frequently testified in support of full funding for the Coast Guard.**

August 8, 1988

Lead Agency: OMB  
Other: DOJ, TR, DOT

**CUSTOMS AND JUSTICE FORFEITURE FUNDS**  
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Bill: D'Amato/DeConcini (S. 2205 -- Senate Dem.)

Takes DOJ Assets and Customs Forfeiture Funds off-budget; exempts them from all budget controls, including GRH; deletes existing requirement that expenditures from funds are subject to limitations in appropriations Acts; requires surpluses in Justice fund to go to prison construction and/or support of prisoners in non-Federal institutions; and exempts procurements of supplies and services under the Funds from the procurement laws. (Sec. 102). Permits sharing of seized property with State and local law enforcement agencies if agencies "cooperate" with Customs in joint law enforcement operations (compared to "participated directly" in current law); also permits sharing property with foreign governments; permits retention of forfeited property for use by Customs.

Bill: Byrd (S. -- Senate Dem.)

Amends title 28 of United States Code to allow employment of outside contractors by Department of Justice assets forfeiture fund, and establishes a Customs forfeiture fund in the Treasury, to consist of proceeds of seizures by the Customs Service and the U.S. Coast Guard (Sec. 2011-2021). Provisions regarding special and other forfeiture funds (Sec. 2031-2051), Controlled Substances Act is amended, affecting forfeiture (Sec. 2209).

Bill: Wright (H.R. -- House Dem.)

Customs

Provides the United States Coast Guard access to the Customs Forfeiture Fund. Permits reimbursement from the Funds to private citizens for expenses incurred in assisting the U.S. Coast Guard in investigations (H.R. 4658, Sec. 3).



### Justice

Repeals 1986 Drug Bill provisions which allows unobligated monies to carry over fiscal years and requires that excess funds be returned to the Treasury. Allows utilization of the Justice fund for ADP expenditures if the majority of its use is related to seizure/forfeiture. Establishes new provisions directing the Attorney General to assure that State and local sharing is not done to circumvent State law prohibiting forfeiture or limiting uses of forfeited property (H.R. 4916, Sec. 203-207).

Adds provisions which prohibits forfeiture of conveyances unless the owner or person in charge appeared to have knowledge or consent of the possession of a controlled substance (same provisions added to the Tariff Act of 1930 and the Act of August 9, 1939 for conformity). (H.R. 4658, Sec. 7) If a vessel is seized absent this knowledge/consent, the owner must be reimbursed for legal expenses and lost income (H.R. 4658, Sec. 9). When a decision is made to seize the conveyance based on the owner's knowledge/consent, the person in charge of the conveyance must be provided with written notification. If the owner requests a preliminary hearing, the Attorney General must request a magistrate's hearing within 72 hours. Within 90 days of the preliminary hearing, the Attorney General must file a complaint for forfeiture or the court can return the property (H.R. 4658, Sec. 8). (H.R. 4916, Sec. 209 includes similar provisions with conflicting timeframes. This bill requires the AG to file with a magistrate within seven days and to file the complaint of forfeiture within 30 days.) Revises the CSA for conformity with the Chemical Diversion and Trafficking Act (H.R. 4916, Sec. 104 through 109).

Bill: Michel (H.R. 4842 -- House Rep.)

Includes provisions providing the Coast Guard with equal access and administrative responsibilities with respect to the Customs Assets forfeiture fund.

Allows Coast Guard to reimburse private citizens for undercover operations.

Unlike Wright bill, contains no proportional distribution of expenses or proceeds.

Allows proceeds of the Fund to be used for payments to innocent owners of commercial vessels seized for Controlled Substance Act violations.

Bill: Dole (S. -- Senate Rep.)

Gives Congress greater control over Assets Forfeiture Fund through increased reporting requirements. (Section 7001).

Increases the amount of the rewards, and allows payment of rewards for information or assistance leading to the seizure of illegal drugs, not to exceed the lesser of \$150,000 or one-fourth the value for the drugs seized. (Section 7002).

White House Conference for a Drug Free America

The process for seizing, liquidating, and distributing the assets of illicit drug offenders must be expedited.

National Drug Policy Board

Administration Position

Coast Guard's access to the Customs Forefeiture fund should not be resolved through legislative procedures.

The Administration supports the Federal procurement laws provision (OFPP has no objection), and increased use of Justice Asset Forefeiture Fund for ADP.

The Administration opposes provisions which would ban use of the Justice Asset Forefeiture Funds for prison construction.

The Administration opposes the innocent owner provisions as written.

Treasury's position is as follows. Under present law, the Commissioner of Customs has the discretion to make such reimbursements. The Coast Guard has claimed that the management of the Customs Forefeiture Fund with regard to Coast Guard seizures, has been "less than satisfactory". Until this time, the Coast Guard had not made Customs aware of any problems with regard to receiving reimbursement. This problem can best be addressed administratively, without resorting to legislation.

Coast Guard seizures constitute less than 1% of the total deposits into the Customs Forefeiture Fund, therefore, to give them equal administration of the fund would be inequitable.

The proposed language would not only require reimbursement of Coast Guard seizure expenses, but would also authorize expenditures out of the Customs Forefeiture Fund by the Coast Guard for things of which the Coast Guard has no need. Section 203 of H.R. 4608 would allow the Coast Guard to make awards of compensation to informers, and to reimburse private citizens who have cooperated in investigations and undercover law enforcement operations which the Coast Guard is not authorized to conduct.

Thus, Treasury notes these provisions should not be supported. As part of the NDPB process, Customs and Coast Guard are in the process of developing alternative language to address the Coast Guard's concerns.

DOT supports the concept of appropriate access for the Coast Guard to the Customs Forefeiture Fund, and has supported the provision of the Hutto Bill (H.R. 4658). DOT supports the language recently jointly proposed by Coast Guard and Customs. DOT strongly opposes provisions limiting the authority to seize conveyances, or impose procedural or substantive changes to current law. DOT supports more expeditious processing of seizure cases.

State notes that with reference to D'Amato and others, any sharing of property with foreign governments must be subject to a treaty or executive agreement, have the concurrence of the Secretary of State, and be denied to any country which has been denied certification under Sec. 481(h).

DOJ recommends adoption of the NDPB package of Asset Forefeiture provisions developed by the Law Enforcement Coordinating Group working group (DOJ, DOT, and Treasury).

DOJ supports amendments to permit employment of outside contractors by Asset Forefeiture fund and opposes restrictive "innocent owner" provisions which require impactful preseizure procedures. DOJ supports codification of current "rapid release" procedures as a substitute to Young-Studds-Hughes provisions.

#### Status

Coast Guard and Customs have developed alternative language and have provided it to the hill.

August 8, 1988

Lead Agency: OMB  
Others:

**ANNUAL REPORT ON DRUG ENFORCEMENT EXPENDITURES**  
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Bill: D'Amato/DeConcini (S. 2205 Senate Dem.)

Bill: Byrd (S. Senate Dem.)

Bill: Wright (H.R. House Dem.)

Requires the President to include in his budget a report on agency drug enforcement expenditures for the preceding years and proposed spending for the budget year (H.R. 4658, Sec. 10).

Bill: Michel (H.R. 4842 House Rep.)

As part of the Maritime Drug Law Enforcement Act of 1988, includes provisions that would require the President to include in his budget a report on the total amount of spending by each agency for drug enforcement, and would require Congressional Committees to report on the same information. (Sec. 4042)

Bill: Dole (S. Senate Rep.)

White House Conference for a Drug Free America

National Drug Policy Board

Administration Position

Generally, we oppose on principle any provision that requires the President to submit specific reports with his budget. As a practical matter, however, we could comply with this section if we had to.

We now collect this information from the agencies but not until a couple of months after the President submits his budget to Congress. It would be a burden on OMB to collect and review this data in time for publication of the budget.

Status